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PREPARATION FOR THE FEBRUARY 1986 PHILIPPINE PRESIDENTIAL ELECTION

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HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

DECEMBER 18, 1985

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PREPARATION FOR THE FEBRUARY 1986 PHILIPPINE PRESIDENTIAL ELECTION

WEDNESDAY, DECEMBER 18, 1985

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met at 10:05 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Richard G. Lugar (chairman of the committee) presiding.

Present: Senators Lugar, Pressler, Evans, Pell, Cranston, Dodd, and Kerry.

The CHAIRMAN. This hearing of the Senate Foreign Relations Committee is now called to order.

The Committee on Foreign Relations is today holding hearings on preparations for the presidential election in the Philippines scheduled to take place on February 7, 1986.

Let me start by emphasizing the close and friendly relationship between the Philippines and the United States and the Philippine heritage of democratic institutions implanted largely through American influence earlier this century. The Filipino people are as proud of their democratic institutions and processes as we are of ours in the United States. They will find sincere support for elections which express the genuine will of their electorate, and it is my hope that today's hearing will encourage such an election.

The committee will receive the report of the Center for Democracy, a foundation associated with Boston University which has performed election studies in the past on preparations for the February election and the political campaign already underway.

In a letter dated November 21, 1985, Senator Pell and I requested the center to undertake this bipartisan study and to report back to the committee as soon as possible. We defined the parameters of the center's study as follows: One, to demonstrate the concern of the committee that the presidential election be fair, free, and an accurate reflection of the wishes of the Philippine electorate, and that preparations now in progress are supportive of such an election; two, to study the electoral code recently passed by the Philippine National Assembly; three, to observe and analyze the preparations being made under this electoral code and other pertinent laws and regulations for the holding of an election in February 1986 or later; and four, to discuss with relevant participants the progress of election preparations, including problems.

The center's study delegation traveled to the Philippines with these instructions in hand on December 7, and returned this past weekend.

I would like to point out that today's hearing supports House Concurrent Resolution 232, which was adopted November 14, 1985, and expressed the sense of the Congress regarding the restoration of democracy in the Philippines. It also relates to the letter which Senators Pell, Murkowski, Cranston and I sent to President Ferdinand Marcos on November 22, 1985 expressing our hopes for a fair and free election.

Finally, and of immediate importance, it is probable that the Philippine Government may invite the U.S. Congress and perhaps other parliamentary bodies to send delegations to observe the February elections. These are the reasons for today's hearing by the Committee on Foreign Relations.

Our intention is not to meddle in the internal affairs of the Philippines. It is, rather, to assist members in considering such an invitation if and when it is extended, to observe the elections, and to assess other questions in connection with the Congress responsibility for authorizing and appropriating security and economic assistance.

I believe it is well known that the Congress spoke out clearly on this matter in the foreign assistance authorization legislation last August.

The committee will ask the center's president, Dr. Allen Weinstein, and members of his delegation to summarize their findings. This is a bipartisan delegation. Two members are active in the Republican National Committee, two are active in the Democratic National Committee.

A second panel composed of Acting Assistant Secretary of State for East Asia and the Pacific, John C. Monjo, and Assistant Secretary of Defense for International Security Affairs, Richard L. Armitage, are present to respond to the committee's questions on the election process. And my understanding is that both will have initial prepared statements which they may wish to summarize prior to responding to questions.

However, in view of the fact that the Center for Democracy's written report was received only last night at a late hour, the administration did not have time to study it, and has requested that its formal comments, if any, be submitted in writing to the committee by the close of business tomorrow, Thursday. The record will be kept open to receive those comments.

Let me introduce the four other members of today's first panel who will appear with Dr. Weinstein, all of whom are distinguished lawyers with experience in the theory and the practice of elections and the political environment associated with elections.

I want first to express the deep gratitude and appreciation of this committee to Dr. Weinstein and his colleagues for having undertaken this task on very short notice, for having carried it out with such enthusiasm, and for having submitted to the committee a report so promptly.

Dr. Weinstein, it is remarkable that only 4 days ago you were conducting your final interview in Manila with vice presidential candidate Arturo Tolentino, and with the Commission on Elections,

and here you are today giving us a finished report. I want to compliment you on the speed and the diligence with which you have carried out these difficult and sensitive tasks.

Members of the center's team now at the table are Jan W. Baran, partner, law firm of Wiley & Rein, American Bar Association, chairman of the Special Committee on Election Law and Voter Participation Advisory Commission, and general counsel to the National Republican Congressional Committee; Robert F. Bauer, partner, law firm of Perkins Coie and general counsel to the Democratic Senatorial Campaign Committee, and counsel to the Democratic Congressional Committee; E. Mark Braden, chief counsel, Republican National Committee; and Elaine Shocas, counsel to the treasurer, Democratic National Committee and special counsel to the American Federation of Teachers.

I would also like to mention that Mr. Caleb McCarry, the center's director for International Programs, was also part of the delegation and is in the room today.

Prior to the testimony of the panel, I want to mention that Senator Pell may not be able to attend the hearing today. If he were present, I would call upon him for an opening statement at this time. In the event that he does appear, I will certainly recognize him for opening comments because I appreciate his usual and characteristic assistance in getting this project underway.

I would also like to take this opportunity before we begin the testimony today, just as a word of personal privilege, to thank the staffs of both sides of the aisle on this committee who have served remarkably well during this year. The committee room has been packed almost morning, noon and night with activity. This is at least an extra burden and challenge, perhaps excitement for the staff, and we are grateful to you, grateful to all Senators who have appeared, have really through their attendance and their diligence made possible the product of work legislatively and certainly the interest and enthusiasm.

And finally, I would like to mention my own thanks and that of our committee to the press who have attended faithfully, stayed with us throughout the hours of these hearings. This one I think is an especially interesting one today, and we are grateful there has been such an excellent turnout of the media and of the general public who are deeply interested in this subject.

At this point I would like to turn to you, Dr. Weinstein, and if you would proceed and outline if you can how your panel's presentation might be made in a reasonably expeditious manner, and then we will proceed to questions of Senators.

STATEMENT OF ALLEN WEINSTEIN, PRESIDENT, CENTER FOR DEMOCRACY, AND UNIVERSITY PROFESSOR IN HISTORY, BOSTON UNIVERSITY, ACCOMPANIED BY JAN W. BARAN, PARTNER, LAW FIRM OF WILEY & REIN, AMERICAN BAR ASSOCIATION, CHAIRMAN OF THE SPECIAL COMMITTEE ON ELECTION LAW AND VOTER PARTICIPATION ADVISORY COMMISSION, AND GENERAL COUNSEL TO THE NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE; ROBERT F. BAUER, PARTNER, LAW FIRM OF PERKINS COIE, AND GENERAL COUNSEL TO THE DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE AND COUNSEL TO THE DEMOCRATIC CONGRESSIONAL COMMITTEE; E. MARK BRADEN, CHIEF COUNSEL, REPUBLICAN NATIONAL COMMITTEE; ELAINE K. SHOCAS, COUNSEL TO THE TREASURER, DEMOCRATIC NATIONAL COMMITTEE AND SPECIAL COUNSEL TO THE AMERICAN FEDERATION OF TEACHERS

Mr. WEINSTEIN. Thank you, Mr. Chairman.

Mr. Chairman, Senator Lugar, Senator Cranston, Senator Kerry, Senator Evans, ladies and gentlemen, I might begin by indicating how this presentation will be made.

Senator KERRY. Mr. Chairman, might we ask the witness to speak a little closer into the microphone, please?

The CHAIRMAN. Yes, please bring it up closer.

Mr. WEINSTEIN. We submitted this report to the staff of the committee at 8 o'clock this morning. The extraordinary staff at Wiley & Rein, the law firm that one of our colleagues, Jan Baran, is a partner of, worked above and beyond throughout the night to help us duplicate copies and prepare it for you. We are most grateful for that assistance. But it does mean that the members of the committee have not had a chance to read these findings in detail, and therefore, with your indulgence, Mr. Chairman, we would like to take perhaps more than the usual time in introducing the material.

I will begin with a summary of our findings. My colleagues Messrs. Baran and Bauer will discuss the constitution and election law framework; after which my colleagues Ms. Shocas and Mr. Braden will discuss the preparations for the presidential election. I will have a very brief closing statement on the role of international observers.

The delegation left Washington for Manila on Saturday, December 7, and during the next 6 days met with over 75 Filipino political and public figures to review the state of election preparations. A complete list of those with whom the delegation met is appended to our report as exhibit D. I think it worth noting that our schedule included long meetings with President Ferdinand E. Marcos, KBL vice presidential candidate Arturo Tolentino, UNIDO opposition presidential candidate Mrs. Corazon Aquino, UNIDO vice presidential candidate Salvador Laurel, Mrs. Imelda Marcos, Jaime Cardinal Sin, Minister of Defense Enrile, Chairman Victorino Savellano and members of the Commission on Elections, hereinafter to be referred to as Comlec, and their key staff members, Chairman Jose Concepcion, Jr. and other leading officials of the National Citizens Movement for Free Elections, or NAMFREL.

We tried to familiarize ourselves thoroughly with the essential constitutional, legal and political factors shaping the February 1986 presidential contest. Specifically, we conveyed to all those with whom we met the explicitly nonintrusive and bipartisan character of our inquiry, supporting no side, and favoring no perspective other than an attempt to compile a presentation of the facts needed by the Foreign Relations Committee in rendering intelligent judgments on the question of whether the forthcoming election campaign would be free, fair, and credible to the Filipino people.

If the Supreme Court of the Philippines declares the election constitutional, that country will vote on February 7, 1986, for President and Vice President. Virtually all political leaders in the Philippines recognize the present moment as one of unprecedented crisis in the life of that nation, borne out dramatically by President Marcos' decision to seek a special election well before the conclusion of his regular term of office.

The election in February 1986, therefore, holds both enormous risks and presents significant opportunities for the future of democratic institutions in the Philippines. If the election is widely believed by Filipinos to have been conducted unfairly or fraudulently, the candidates who take office as President and Vice President will lack the legitimacy required for effective governance. On the other hand, if the election is widely recognized to have been conducted in a free, fair and honest manner, credible to the large majority of the electorate, it can accelerate dramatically the democratic process in that country and thereby contribute to national cohesion and effective government in the face of major political, economic, social, and national security problems.

The government of President Marcos has offered assurances that this election will be conducted fairly and without coercion. Nevertheless, significant concerns were expressed in this regard by many Filipino political, religious, labor, business, and media leaders with whom we met.

Because the Government of the Philippines and COMELEC, the electoral commissioners, have not yet concluded their final determinations on essential election procedures, our judgment on the ultimate fairness and credibility of the election must remain tentative at this point. The procedures in question will determine whether the campaign, voting and tabulation of ballots will be persuasively honest and, as important, will appear to be so to the bulk of the Filipino people.

We have no hesitation, however, in suggesting major criteria to the committee by which dispassionate observers of the current electoral process in the Philippines can evaluate its fairness. These criteria substantially rely on the legal framework and procedures used in connection with the May 1984 Batasan or legislative elections, generally viewed by Filipinos to be among the country's fairest.

The following requirements and conditions are critical in our opinion to determine the fairness of the February 1986 election. The Government's position on these matters, I stress, was unresolved at the time of this report.

The national accreditation by COMELEC of NAMFREL, the National Citizens Movement for Free Elections, widely credited for effectively monitoring the 1984 legislative election, as COMELEC's principal citizens' arm for the Presidential contest. I stress, Mr. Chairman, the national accreditation of NAMFREL, across the country, along with any other civic organizations that COMELEC may wish to accredit for specific parts of the country. The national accreditation of NAMFREL should not include, as it now appears to, Mr. Chairman, the inordinate additional burden of accreditation in 42,000 separate localities.

The prompt fulfillment by President Marcos this month of his commitment to appoint two additional members to COMELEC in time to join deliberations on 1986 election procedures.

The recognition of the Aquino-Laurel UNIDO ticket by COMELEC as the dominant opposition party, DOP, as provided for in the electoral code, with all poll-watching and other rights provided for the dominant opposition party under the code.

Enforceable guarantees of equal access to media for the dominant opposition party as provided for in the electoral code. These guarantees must include the allocation of substantial, free radio and television time, COMELEC time, as it is called in the code, to and its equivalent division between Government, KBL, and dominant opposition, UNIDO, parties, and similar provisions to govern COMELEC space in newspapers.

Enforceable guarantees of reasonable access to paid radio and television time and newspaper space for the dominant opposition party in quantity and at rates identical to those made available to the ruling party.

The close and appropriate supervision of all military and paramilitary forces by COMELEC as provided for in the electoral code to assure that they are not used for purposes of partisan influence prior to the election, intimidation during the voting process, or ballot fraud in tabulating votes.

The quickest possible counting of ballots throughout the country, including those provinces most notable in the past for verified voting fraud, utilizing where possible the resources of both COMELEC and NAMFREL in a collaborative manner.

The establishment, finally in response, to general concern and to invitations from President Marcos and Mrs. Aquino, the commissioners of COMELEC and both Government opposition leaders, of a coordinated international observer process beginning in January 1986. This observer process must continue through vote counting and certification of ballots and should follow the suggestion by KBL Vice Presidential candidate Arturo Tolentino, and opposition leaders, that observers concentrate their efforts on trouble spot provinces, working in collaboration with NAMFREL and COMELEC.

The report which follows, Mr. Chairman, which my colleagues will summarize, describes the constitutional and legal background of the special Presidential election, the potential problems that we encountered in this process, and problems which, if left unresolved, in the opinion of the delegation, will reflect upon the credibility of the election.

The U.S. Congress, in the view of the delegation, should base any decision to send an official delegation to observe the February 1986 election on the manner in which these issues are resolved.

Mr. Chairman, I would like to turn the floor over to Messrs. Jan Baran and Bob Bauer.

The CHAIRMAN. Very well.

Mr. Baran.

Mr. BARAN. Mr. Chairman, I am going to address a couple of constitutional aspects of this election in the Philippines, namely, the constitutionality of the election itself, which is at issue, and second, the constitutional basis for the Commission on Elections, or COMELEC.

The present constitution provides for the election of a President every 6 years. The constitution also provides for the election of a Vice President. There is no current Vice President of the Philippines. That office was abolished in the early 1970's and was not reinstated into the constitution until 1984 in the course of a plebiscite.

The current constitutional framework is that a regularly scheduled election for president is to occur in May of 1987. However, if the snap election occurs that election in May of 1987 will not occur because the candidates elected in February 1986 would earn 6 year terms, and therefore would be in office until 1992.

As the committee is aware, President Marcos submitted a letter to the legislature on November 11 calling for the snap election prior to 1987. In his request, President Marcos stated that he would irrevocably vacate his office after the election is held and after a winner is proclaimed and qualified. As a result of that request, the Philippine legislature enacted a special bill, Cabinet bill No. 7, which called for the election on February 7 for President and Vice President, and provided for other substantive requirements in the preparations for the election.

The Philippine Constitution is distinguished by the broad powers that are granted to the President. The most sweeping of these powers is the so-called decree power, commonly referred to as amendment 6. The President, under this provision, has the constitutional authority to issue decrees whenever he determines in his personal judgment that "there exists a grave emergency or a threat or imminence thereof."

Therefore, if the snap election within the judgment of President Marcos would address such a grave emergency as mentioned in amendment 6, he could exercise his decree power to call for the election notwithstanding any supreme court decision nullifying the calling of that election by the legislature.

When this scenario was presented by us to Minister of Political Affairs and former COMELEC Chairman Leonardo B. Perez, he agreed that the President's decree power could be exercised in this fashion. President Marcos, on the other hand, stated to us that if the supreme court declares Cabinet bill 7 unconstitutional, in his words, "there is no snap election." He further stated that exercise of his decree power to overrule the supreme court decision would be, again in his words, "highly questionable."

The circumstances under which President Marcos has offered to resign has prompted the constitutional challenges before the Su-

preme Court of the Philippines which were discussed in this morning's papers. Several cases are now being heard and argued this week.

While we were in the Philippines, some of the individuals we spoke with suggested that a decision by the supreme court would come expeditiously and some mentioned that perhaps a decision would be reached this week. We of course have no way of pinpointing when they will make such a decision.

The constitution expressly allows a special election such as the one that has been called for in February in the event of permanent disability, death, impeachment or resignation of the President, but it is silent on whether the President may voluntarily submit to a special election while holding office as is the case currently with President Marcos. In effect, the supreme court, all of whose members are appointed by the President, will ultimately rule on whether the February 7 snap election may take place. If they rule that it cannot take place, President Marcos will then have to consider his option under amendment 6 of the constitution to call for a snap election by decree.

The second aspect of the constitution that we concentrated on was the creation of COMELEC, the Commission on Elections. It is an agency of the Government, and it is constitutionally created rather than legislatively created. Its members are appointed by the President. There used to be a confirmation process prior to the 1973 constitution.

COMELEC administers and enforces all election laws and judges election contests. Its members perform their duties in the dual roles of administrators and judges. Through its powers under the constitution, it accredits political parties and may also deploy, with the consent or at the instance of the President, the armed forces to assure the orderly, free and honest conduct of the elections. The involvement of the President in decisions over the deployment of forces was added in the 1973 constitution, its 1935 predecessor having conferred exclusive authority in these matters on COMELEC. Thus, the 1973 constitution, prepared and approved under martial law which existed between 1972 and 1981, provided for substantially broad presidential power in election matters, namely, those concerning COMELEC appointments and the use of the military in elections.

The CHAIRMAN. Thank you.

Mr. Bauer.

Mr. BAUER. Mr. Chairman, I would like to follow Mr. Baran's presentation of the constitutional context with a brief delineation of some of the statutory questions which have been raised in light of the snap election scheduled for February 7.

The first issue of concern is the passage of a law known as Cabinet bill No. 7. Cabinet bill No. 7 is a special enactment governing the February 7 election. It supersedes in pertinent part the Omnibus Election Code of the Philippines, though on those issues that it does not address, the provisions of the Ominbus Election Code apply.

Cabinet bill No. 7 is the bill which set the date of February 7, 1986 for this Presidential election. It also provides for certain critical time deadlines, such as the filing of certificates of candidacy,

the nomination by political parties of their candidates, the registration of new voters, and challenges to the inclusion or exclusion of these new voters. It is also significant that Cabinet bill 7 specifies the campaign period for the special election.

Under Philippine law, a campaign period is that period during which candidates and political parties may engage in overt public partisan activities, in the words of the statute, to promote the election or defeat of a particular candidate or candidates to public office. Under the bill, that period is set from December 11 through February 5. So the period of active campaigning in the Philippines closes 2 days before the election actually takes place.

Cabinet bill 7 furthermore sets out the critical criteria for accrediting the dominant opposition party. Dominant opposition status, as my colleagues, Ms. Shocas and Mr. Braden, will discuss later, is of utmost significance under Philippine election laws for it carries with it the right of the dominant opposition party to designate one member to the various boards of election inspectors and canvassing. Moreover, the expenses associated with the activities of those boards, including their dominant opposition party members, are paid for by the Government.

It should be mentioned that a series of issues arising out of this Cabinet bill No. 7 were raised during our visit. The delineation of the campaign period was one. The constitutional nature of Cabinet bill No. 7, which Mr. Baran addressed, was another. And a third was the accreditation of a dominant opposition party, which of course is a critical moment in the procedural process of this election.

I add in closing on Cabinet bill No. 7 that this enactment of December 3, 1985, involves a very compressed timeframe. It was passed in early December for an election in early February with a series of critical deadlines in January. As a result, there was inevitably a significant measure of confusion introduced into the process by the passage of the bill under these compressed times. For example, the Commission on Elections was required to move up from December 21 to December 14 the date when political parties must nominate their candidates for the simple reason that they could not adhere to the statutory deadline that was originally set by the national assembly.

As I stated, Cabinet bill No. 7 addresses those issues specific to the February 7 election. Other issues unaddressed by that special legislation are covered in the Omnibus Election Code. That code was also approved on December 3, 1985. I should add that the code was debated in the national assembly at length by both ruling and opposition parties, and it is frankly a source of some pride in and of itself within both Government and opposition circles. The code contains extensive regulation of all aspects of the election process, and I will very briefly delineate some of the highlights of the code treatment with specific reference to how they could be significant to the conduct of this election.

The statute addresses the powers of COMELEC beyond those which are specifically delineated by the constitution as addressed by Mr. Baran. COMELEC possess, as Mr. Baran states, plenary power to deploy national and local law enforcement powers and the armed forces of the Philippines to act, in quotes, "as deputies," for

the purpose of ensuring orderly elections. In our interviews in the Philippines, and particularly in an interview with a regional COMELEC chairman in Davao City on the island of Mindanao, it was confirmed to us that he would in consultation with the national COMELEC office, as he had in the past, probably be required to command the local police or the armed forces to assure the orderly conduct of elections.

So the COMELEC power over the military is real as well as theoretical, and it is anticipated as well as merely a matter of theoretical structure.

COMELEC also registers political parties, and as I stated previously, designates the dominant opposition party, which has substantial rights of membership in certain poll-watching activities. COMELEC also accredits the so-called citizen arms, nonpartisan organizations, one cited by Dr. Weinstein being NAMFREL, which operate to assure the honest and orderly conduct of the election, and this is a significant issue which will be covered again in some detail by Ms. Shocas and Mr. Braden.

COMELEC also exercises authority over the certification of candidates, including the office of president, and COMELEC is authorized under the code to determine that certain candidates are nuisance candidates. Nuisance candidacy determinations have a significant bearing on COMELEC's decisions with respect to the allocation of free radio and television time on an unpaid basis for the obvious reason that if some candidates are disqualified as nuisances, the time does not have to be so broadly spread out.

That covers, I think, the highlights of COMELEC's authority. I would like to briefly address the regulation of campaign activities next in order.

The code extensively regulates campaign activities and the dissemination of election propaganda. Certain forms of election propaganda are prohibited altogether. For example, in some of our discussions with opposition members and representatives, we were advised of their concern over a specific statutory prohibition on the public display of any propaganda disseminated by means of cinematography, audiovisual units, or other screen projections. However, on the other hand, we were informed by certain well-informed members of the government, including members of the parliament involved in the drafting of the code, that this and similar restrictions on overt political activity, though in the statute, were basically unenforced.

Finally, COMELEC does regulate the availability of radio and television time on both a paid and unpaid basis, an issue which I will again leave to more extended treatment by Ms. Shocas and Mr. Braden.

In addition to the regulation of campaign activity itself, the code provides for the regulation of campaign finance. I can say briefly here that virtually all parties agreed that though the campaign finance restrictions of Filipino law were extensive, they are completely unenforced. They are unenforced as to dollar limitations on expenditures, and they are unenforced as to disclosure.

The registration of voters is a matter that is also extensively addressed by the code, and I note here again the significance of domi-

nant opposition party membership in the boards which oversee the registration of voters.

The code furthermore regulates the conduct of polling activities within the polling place, and it is here we encounter the issue of the role of local elected barangay officials. Barangay officials representing the lowest or smallest unit of government in the Philippines are, again, local elected officials. In 1984, in the face of explicit statutory law to the contrary, the COMELEC felt compelled to issue a resolution disqualifying barangay officials from serving as poll watchers or members of the Boards of Election Inspectors. In passing this resolution, COMELEC was in effect prohibiting barangay officials from maintaining a continuous presence in the polling place. This is a matter of significant concern to opposition representatives who support this exclusion.

At the same time, however, both the 1978 code and its predecessor enacted in 1985 repeat the authorization that local elected barangay officials may remain continuously in the polling place as either watchers or members of the Boards of Election Inspectors, and COMELEC has now stated that it will not, as it did in 1984, disturb this legislative judgment. It appears clear that local elected barangay officials, notwithstanding opposition concern, will be permitted, if designated as watchers or members of the Board of Election Inspectors, to remain in the polling place.

The code deals in considerable detail with the preparation of ballots and returns, the counting and tabulation of votes, and furthermore, the ultimate transmission of the returns to centralized locations.

I would like to emphasize one thing of considerable importance here because the issues in the voting and tabulation process will be very clearly addressed by Ms. Shocas and Mr. Braden. It is significant, however, that virtually all vote counting activity beyond the initial counting of the ballots is verified on the basis and winners are proclaimed on the basis of election returns, and it is the election returns, their preparation and transmission which is the source of the most significant concern about possible election fraud in the Philippines.

I close by simply stating that on December 3, 1985, on the same date that the Omnibus Code and Cabinet Bill No. 7 were enacted, the assembly also passed a law providing for an independent presidential electoral tribunal to decide election contests if they should arise in presidential elections. The tribunal will be composed of nine members, including three members of the Supreme Court, three members from the majority party in the Batasang, three members of the minority party from the Batasang. The tribunal may exercise the broadest powers under this new law in determining who in fact won the election, or in resolving an election contest petition, including discharging the authority to take charge of all ballot boxes, election returns, and other election materials, and placing them under guard by deputies appointed by the tribunal.

Mr. WEINSTEIN. Thank you, Bob.

Before turning to Mr. Braden and Ms. Shocas to discuss the preparations for the Presidential election, I want to stress for the committee the importance of our efforts to seriously examine the constitutional and legal underpinnings of this election. You just heard

a presentation by two of the country's foremost election law specialists. We tried to translate this for our Philippine friends with an analogy, calling them the Dillinger & Lepke of election law in the United States. They battle one another in the Supreme Court on occasion, and their collective efforts to dig beneath the surface of this election code I think hit pay dirt on a number of occasions.

And with that, Mr. Braden.

Mr. BRADEN. Ms. Shocas and I, Mr. Chairman, are going to speak about the preparations.

I think the first observation that needs to be made is there is not much time. This is not your normal election period. It is a snap election.

The first problem that confronts the COMELEC, the Commission on Elections, is the preparing of ballots. A great concern has been expressed to us by the opposition that there will not be sufficient time for COMELEC to procure a new watermark for new ballots and tabulation sheets. And the answer to that is they cannot do it. They need 90 days, minimum to procure the new papers. It is a legitimate concern expressed by the opposition but one for which, in light of the snap nature of this election, there seems to be no totally satisfactory resolution.

Tabulation of results. The COMELEC has expressed a desire to have all results tabulated within 24 hours. That is their stated goal. For that purpose, they have instituted a program called Super Quick Count in which they proposed to employ a group of computer consultants to create a network of computers using little PC's, using the phone exchanges across the country, 300 different locations, hopefully each of those locations will be within a 2-hour walk of any polling place in the country, beam those results up off of PC's through phonelines to a satellite uplink, to a satellite, and then beam to downstations in the United States and Europe, and then returned to a central computer for final and total tabulation in Manila.

This program, if it worked as advertised, would be a great advancement. You are all practicing politicians, so are probably aware that the sooner you count the votes, the less suspicious people are. The program sounds great in theory.

Unfortunately, the Commissioners of Elections have recognized that there are grave doubts as to whether it will work in reality. First of all, no money has been appropriated yet for this program. The appropriation of the money is, of course, in the sole authority of the President of the Philippines. None of the individuals—and there will be 1,500 workers involved in this program—has of yet been hired. None of the equipment—and we are talking about in excess of 300 personal computers—has of yet been purchased or leased.

The program exists on paper. I would hope that it will exist somewhere else, but at this time there are grave doubts as to whether it will.

If this program does not come into existence, the COMELEC stated goal of having the results within 24 hours, it is very difficult to see how they can achieve that goal. NAMFREL, the national citizens arm, conducted a quick count operation in some areas in the 1984 election which was to some degree successful. Hopefully,

COMELEC and NAMFREL working together will have some success in achieving the ability to quickly count most of the ballots.

Dominant opposition party. We have heard some discussion of that. That is the party that has the right to have pollworkers paid for by the Government of the Philippines, that is, pollworkers in all 90,000 precincts. Very simply, if the ticket of Cory Aquino and Laurel, their party, UNIDO, is not the dominant opposition party, we see no way in which there can be a credible election in the Philippines. We assume that they will in fact be certified as the dominant opposition party, but they were not certified as the dominant opposition party at the time we left the Philippines.

The role of the military, in this I might go into more detail. We have been told by the Government that the army and the civil home defense forces will remain in the barracks, uninvolved in the electoral process, unless required to protect and preserve the process. Clearly there is a proper role for the military in protecting ballots and polling places. There are two active insurgent groups in the Philippines. Both have a substantial ability to disrupt elections. Two Philippine provinces still remain under martial law.

In the 1984 election, 168 ballot boxes were stolen in region VI of Mindanao. There are 12 regions in the Philippines. Violence is a problem. It is unclear at this time whether Moslem insurgents or the New People's Army will attempt to disrupt the electoral process. There is a role for the military to protect the integrity of the process from interference by these insurgent groups or from any of the other armed elements of Filipino society.

Opposition members have expressed grave concerns that the army, and in particular, civil home defense forces, might be use to intimidate pollworkers and to steal unfavorable election results. Substantial allegations have been made that in the past members of the Armed Forces have been used as flying voters, moving from polling places to polling places, casting numerous votes.

All opposition discussion of the military cannot be cast as being negative. In the past, ROTC cadets have been used with substantial opposition support as poll watchers. In the upcoming election, though, they are not being permitted to be used by COMELEC.

If segments of the military actively interfere with the electoral process, no citizens' organization nor opposition political element will be able to stop their interference and preserve the integrity of the process. They have guns. The opposition electoral forces do not.

The opposition has expressed strong doubts as to the neutrality of many of the senior officers of the Armed Forces. More confidence has been expressed by the opposition in the loyalty of junior officers to the constitutional and legal processes. The "We Belong" movement of junior military officers was often cited as an indication that young officers might resist efforts to have the Army actively intervene in the political process.

The political neutrality of the military is vital to a fair and credible election.

Another factor that we viewed as absolutely critical to a fair and free election was the accreditation of the National Citizens Movement for Free Elections. This group was organized in October of 1983 by Jose Concepcion and is closely linked with Catholic laity groups and various civic organizations in the Philippines, Kiwanis,

Rotaries, Bar associations, et cetera. The stated aim of NAMFREL is to harness citizen power to work for free, orderly and honest elections by organizing and training volunteers nationwide to monitor the election process.

In the 1984 election, two organizations were accredited nationwide as citizens watch, NAMFREL and one other organization which was generally recognized as being totally ineffective. Basically NAMFREL receives high marks from all sides for its role in helping the 1984 election to be relatively free and fair, possibly the most free and fairest election in recent Filipino history. NAMFREL conducted a vote tabulation system called Operation Quick Count which often produced results in advance of COMELEC. In those areas where NAMFREL was active, it was, in the words of KBL vice presidential candidate Tolentino, a very effective organization.

COMELEC has the authority to determine which organizations will be official citizens 'arms. They have indicated that they will accredit NAMFREL but have not clearly indicated whether NAMFREL will be accredited nationwide. They have also indicated they may accredit other groups. Some commissioners have indicated they will have no problem with accrediting NAMFREL nationwide, but some have not been so clear in their answers to us.

If COMELEC does not accredit NAMFREL nationwide and if they are not accredited in a manner that permits them to perform their function, we do not feel that we could rest assured that it will be a fair and free election.

The CHAIRMAN. Thank you.

Ms. Shocas.

Ms. SHOCAS. Mr. Chairman, I would like to continue discussing certain preparations which are being made for the snap election and I will begin with a brief discussion of the ballot boxes. The code requires that ballot boxes throughout the Philippines be uniform in that they be constructed with one side transparent. The purpose of the transparent-sided box is to prevent fraudulent voting activity, specifically the stuffing of ballot boxes prior to the election.

As Mr. Braden indicated, in the upcoming election there will be 90,000 voting precincts. We have been advised by COMELEC officials that only 25,000 to 30,000 transparent-sided voting ballot boxes will be available in time for the election. In the remaining precincts, the ballot boxes used in previous elections will be used. It is anticipated that these 25,000 to 30,000 ballot boxes will be placed in areas where COMELEC anticipates fraudulent voting activity and in those areas where ballot boxes have been stolen in previous elections.

A second area of preparation which I will mention only briefly is that of the identifying ink on the voter. The code requires that each person who votes shall have applied to his or her fingernail an ink spot. This will serve as a means of identifying a person who has voted and to prevent that person from voting more than once. In the last election there was a controversy because the ink, in fact, proved to be easily removable with a solution. COMELEC has advised us that the mixture which is being used for the snap election will, in fact, not be removable for a significant period of time.

We reviewed the new registration procedures for the snap election. The major change from prior registration procedures is that registrants are now required to provide four copies of a photograph, one of which is affixed to a voter registration card. In response to our question of whether facilities in the very remote areas of the Philippines were available for persons to obtain these photographs, COMELEC officials said that they were available. COMELEC is not required to and will not provide such services. One COMELEC official further indicated that, in certain instances, applicants known to local officials might be allowed to register and subsequently vote without a photograph on the registration card.

This raises major concerns. Selective enforcement and selective application of only certain provisions of the registration procedures jeopardizes the ability to guard against flying voters and ghost voters. Flying voters are people who move from one precinct to another and vote more than once. Ghost voters exist in situations where there are either more votes in the ballot box than registered voters, or more registered voters than residents of a district.

Another area which we have examined is that of the COMELEC membership itself. Currently there are two vacancies on the COMELEC. The remaining seven members were appointed by President Marcos. In the course of our meeting with President Marcos he stated that he expects to fill the vacancies prior to the election. He further indicated that he would like to receive a recommendation from the judiciary and the bar and would not be opposed to appointing a member recommended by NAMFREL.

The opposition is of the strong opinion that with the exception of one commissioner who was considered mildly independent, COMELEC commissioners are partisan KBL members under the direction of President Marcos. The members of COMELEC, on the other hand, insist that they are independent of his control and conduct their functions in a fair and nonpartisan manner.

One area I would like to address with greater detail is the area of access to the media.

It is the position of the opposition groups that the KBL and the Government own or control the major media outlets and markets in the Philippines. The opposition has expressed grave doubts as to its ability to obtain equal access to the media or even adequate press coverage of its activities. During our visit we were advised by an Aquino campaign official that they had reserved television time, but at the last minute it was cancelled with no explanation.

Because foreign journalists have been unable to obtain adequate television or studio time for opposition interviews, Mrs. Aquino and other opposition leaders, including Senator Laurel, have flown on occasion to Hong Kong for such purposes. Foreign journalists also have been forced to fly their tapes out of the country rather than risk transmitting them out of the Philippines.

Candidates seeking to convey their message to the public through the print and electronic media may do so through either the purchase of paid media, the use of COMELEC time and space, and press coverage. The COMELEC itself is charged with ensuring that equal media use is available to all candidates.

Radio is the primary means of communication throughout the Philippines. At issue is who owns or controls the approximately 350

radio stations in the country. President Marcos, KBL officials, and COMELEC commissioners have stated that a significant number of radio stations are owned and operated by opposition groups, resulting in KBL candidates being denied access to those stations. With the exception of one station which is considered somewhat independent, television stations are under the control of the government. Conversely, opposition leaders and members of the media advise that the overwhelming majority of radio and television stations are Government influenced or controlled. Opposition leaders have specifically stated that they have been unable to purchase radio time on most Government-controlled or influenced stations.

During the course of the campaign, COMELEC is required to provide to the candidates on a daily basis television and radio time on every station in the country, known as COMELEC time, and space in at least one newspaper in every province or city, known as COMELEC space. Under the code, COMELEC time and space is to be provided free of charge and equally to all candidates. Currently the commissioners anticipate that they will designate one-half hour daily of prime time radio and television time as COMELEC time and will divide it equally between the candidates.

We were unable to obtain a definitive statement as to whether this time would be equally divided between all candidates who have filed for the office of president—and there are 27 candidates who have filed—or solely between the ruling party and the opposition ticket led by Mrs. Aquino. President Marcos stated that he would support dividing COMELEC time between the two major campaigns.

If the two major campaigns each receive one-half hour of free time at a reasonable hour each day of the campaign period on all radio and television stations as represented by COMELEC, it will relieve to some degree the opposition's concern about media access. The campaign period is very abbreviated. COMELEC time has not begun. As each day passes, a significant portion of the opposition's opportunity to discuss campaign issues through the mass media also passes.

Mr. WEINSTEIN. Mr. Chairman, members of the committee, in brief summary, we would like to thank you for having borne with us through this detailed presentation on the electoral process. We have a few words to say, sir, on the role of international observers and some concluding thoughts on the election process.

I will try to be brief.

Both Government officials and leaders of the opposition indicated on a number of occasions that they welcomed the presence of international observers during the presidential election process. Such declarations of support for observers from abroad were made by the two presidential and vice presidential candidates, the commissioners of COMELEC, NAMFREL, and a broad range of governmental and opposition leaders. In fact, Mr. Chairman, the KBL's vice presidential candidate, Arturo Tolentino, stressed the importance of international observers visiting those provinces which had been the scene of electoral controversies in the past involving proven fraud or its allegation, especially those well into the country, beyond the metro Manila area.

Senator Tolentino also urged the observers to associate themselves with NAMFREL whose activities he praised, despite what he described as occasional lapses into partisanship on one side or the other in specific localities.

Questions concerning the national accreditation of NAMFREL brought from many KBL leaders, including President Marcos, allegations that an electoral monitoring organization of the 1950's, also named NAMFREL (though with no discernible link to today's National Citizens Movement for Free Elections) had been at least partially funded and supported by the U.S. Central Intelligence Agency.

We heard charges on several occasions by Government supporters that U.S. funds would be sent to support opposition candidates or citizens arms such as NAMFREL. Opposition leaders, on the other hand, expressed concern that funds earmarked by the U.S. Congress either for military or economic assistance to the Philippines would be diverted either directly or indirectly into Government spending on the presidential campaign.

The delegation is persuaded, however, that the international observer process can be managed in a way that satisfies legitimate concerns in the Philippines over interventionist actions while at the same time gaining close understanding of the realities of the election prior to, during, and after the balloting.

Senator Tolentino's suggestion for a close liaison nationally between international observers and NAMFREL as they perform their functions constitutes an essential component in an effective process. Similarly close liaison with COMELEC is the second component, and in both cases should center on especially disputatious provinces and problem areas where charges of election irregularities and fraud have been most common. Also helpful would be frequent informal meetings with those military or paramilitary officials responsible for assuring election fairness and order within each province.

Although a number of groups and individuals may visit the Philippines to observe the elections, and undoubtedly will do so, the delegation strongly believes that a coordinated, bipartisan observer effort would be most effective. We are prepared to discuss our ideas for an observer process with the committee if it so desires.

In closing, Mr. Chairman, members of the committee, a decision on whether or not to support a formal U.S. congressional observer delegation at the time of the election should await, in the delegation's view, resolution of the grave concerns expressed in our report and upon subsequent reports by designated observers.

In the end, however, the most expert international observers cannot decisively guarantee the integrity of an electoral process in the absence of an aroused and observant citizenry within a country. While in the Philippines we heard credible expressions of concern for a free and honest election from political leaders in both government and opposition, COMELEC, the clergy, military officers, business and labor leaders and the coordinators of NAMFREL. In short, on all sides the forthcoming election is viewed as a watershed in the history of the Philippines. Although predictions concerning the election at this point remain perilous, the critical procedural issues described in our report must be resolved. Other-

wise, the earnest intentions of all Filipinos of good will to assure a free, fair, and honest election will founder.

That nation, Mr. Chairman, will then confront an uncertain future without the electoral legitimacy upon which all democratic societies depend.

On behalf of my colleagues in the delegation, Mr. Chairman, thank you very much.

[The report referred to appears as an appendix to this hearing.]

The CHAIRMAN. Well, thank you very much, Mr. Weinstein, for that report and the participation of all members of the panel here this morning.

Let me make this comment. We wanted to hear your report, and therefore we devoted the first hour to getting it in toto. Now, the predicament of the Chair is that we have also two administration witnesses with some time problems. Each of us has time problems, including the panel.

Would it be permissible, because there are many questions I know we want to raise of you, for this panel to step aside for a moment, hear the administration witnesses, and then return to the panel for more exhaustive questioning on the details of your fascinating report, and one we are indebted to you for preparing.

If I could ask you to do that, I would appreciate that, and I would then ask Mr. Monjo and Mr. Armitage to come forward to make their statements and to respond as they might.

Thank you.

Mr. WEINSTEIN. Thank you, Mr. Chairman.

[Pause.]

The CHAIRMAN. The Chair now recognizes John C. Monjo, Acting Assistant Secretary of State for East Asian and Pacific Affairs, who is at the witness table, and Mr. Richard L. Armitage, Assistant Secretary of Defense for International Security Affairs.

Which one of you would like to proceed?

STATEMENT OF RICHARD L. ARMITAGE, ASSISTANT SECRETARY OF DEFENSE FOR INTERNATIONAL SECURITY AFFAIRS

Mr. ARMITAGE. Well, Mr. Chairman, with your permission, sir, I will lead off, though there is a great deal of discomfort for a Defense witness to be seated to the left of the State Department, but nonetheless, we will try to carry on. [Laughter.]

Before making a few brief comments about the armed forces of the Philippines in this election, I would like to update the testimony I gave you last month on the security situation, Mr. Chairman and members. Basically, in the month that has intervened between our last presentation and now there has been little change in the security picture. The growth of the NPA continues in a steady fashion. However, perhaps more important but less tangible, is the continued erosion of Government control and presence in the countryside continues.

As regards new developments in the insurgency itself, two things have come to mind in the last month. First is the increased and rather extensive use of explosives for the first time, and in particular the use of landmines. The New People's Army appears to be experimenting, with some good results, with explosives and particu-

arly mines. Second, the NPA is now targeting helicopters and ixed-wing aircraft. These attacks indicate maturity and confidence are developing with respect to the correctness of their tactics, etc.

Some of the positive changes that I have testified to in the past regarding the armed forces of the Philippines have continued but there have been no dramatic improvements. The procurement reforms that have been put into place and troops are better behaved in some areas towards the civilian population. We see continued lip service to the consolidation of the Civil Home Defense Force under the Armed Forces of the Philippines and under some kind of system which can enforce some sort of discipline. This is positive if it comes about. I cannot testify to you today that it has happened.

Two weeks ago or so, President Marcos indicated that there would be a reorganization and a revamping of the Armed Forces of the Philippines from top to bottom. Thus far I would have to say it has been much more form than substance. There is not yet enough evidence and enough indications of significant changes in the leadership of the Armed Forces of the Philippines to indicate far-reaching changes. There have been, I think, 12 personnel changes of note. I would add, however, that there are indications of more extensive reassignments and retirements to come, and over the past 13 months I think it is significant that 29 overstaying generals have retired.

I cannot today give you an indication or an evaluation from the administration's point of view of the competence or the professionalism of the new generation of AFP leadership. They are just not in place yet, and I will be glad to testify to that competence, or at least give you our point of view, when they are in place.

Regarding the election itself, there is nothing that I heard from the panel this morning that the administration will disagree with regarding the role of the military in the elections. It is our view that the Armed Forces of the Philippines will be faced with an enormous challenge during this February 7 election. Nothing less than the credibility and the honor of the AFP are at stake, and the conduct of the military will determine once and for all whether the Armed Forces of the Philippines can be loyal to the constitution and a true pillar of support for a democratic process on the one hand, or rather, on the other, just a perverse entity which is bent on increasing and accelerating the spiral of instability.

The consequences of a corrupt election would only benefit the Communist Party of the Philippines and the New People's Army. It is equally our view that the Armed Forces of the Philippines can deliver an extremely telling blow to the Communist Party of the Philippines and to the New People's Army if they do remain nonpartisan and neutral in this election, as we expect. This will eliminate one of the major propaganda arrows in the quiver of the Communist Party of the Philippines.

What would be more constructive than an international evaluation that this indeed was the role and the position of the Armed Forces of the Philippines during this election? And if, as we hope, the AFP stays in the barracks, and by this I mean maintains a neutral, nonpartisan stance, then they should be recognized for that; they should be applauded for that; and in our view should be supported for that. And if, on the other hand, they engage in parti-

san activities during this election, then they deserve to be condemned.

Finally, two points, Mr. Chairman, and that is that no matter the victor in the February 7 elections, one thing is certain, or two things are certain. First, the New People's Army and the Communist Party of the Philippines are going to continue their activities against whoever is in power. Some of the public statements of the National Democratic Front have spoken to the fact that the replacement of the Marcos regime by some bourgeois republic is equally unacceptable to the Communist Party of the Philippines. So the armed struggle is going to continue no matter who sits in Malacanang after February 7. The second thing is, no matter how fair and free an election takes place on February 7, the problems of the Philippines will remain, in the economic area, the social area, the political area, and for sure, military problems will remain. This election is not a panacea.

Thank you very much, Mr. Chairman.

[Mr. Armitage's prepared statement follows:]

PREPARED STATEMENT OF RICHARD L. ARMITAGE

MR. CHAIRMAN:

I WOULD LIKE TO EXPRESS MY ADMIRATION FOR THE CHAIRMAN'S LEADERSHIP AND MY APPRECIATION FOR THE COMMITTEE'S CONSTRUCTIVE EFFORTS TO PROMOTE CREDIBLE ELECTIONS IN THE PHILIPPINES. THE TIMING OF THIS HEARING CERTAINLY CONTRIBUTES TO THAT GOAL, AND I AM PLEASED TO HAVE THE OPPORTUNITY TO PARTICIPATE IN THIS EXCHANGE OF VIEWS ON OUR MOST CRITICAL FOREIGN POLICY PROBLEM IN THE PACIFIC.

PROSPECTIVE ROLE OF THE AFP IN THE ELECTION PROCESS

FOR THE PAST TWO YEARS, IN NUMEROUS APPEARANCES BEFORE CONGRESSIONAL COMMITTEES, I HAVE STRESSED THE CRUCIAL IMPORTANCE OF LEADERSHIP WITHIN THE ARMED FORCES OF THE PHILIPPINES (AFP). LAST MONTH -- SHORTLY AFTER THE ANNOUNCEMENT OF PRESIDENTIAL ELECTIONS -- I SPOKE TO THE PROBLEM OF OVERSTAYING GENERALS AND THE NEED FOR VIGOROUS PROFESSIONAL LEADERSHIP. I ALSO TESTIFIED THAT THE AFP WOULD BE FACED WITH A SUPREME CHALLENGE DURING THE ELECTORAL PROCESS. AT STAKE WOULD BE NOTHING LESS THAN THE CREDIBILITY OF THE AFP AND, IN PARTICULAR, THE HONOR OF ITS OFFICER CORPS. THE CONDUCT OF THE PHILIPPINE MILITARY DURING THIS CRITICAL PERIOD WOULD DETERMINE WHETHER THE AFP IS, IN FACT, LOYAL TO THE CONSTITUTION AND A TRUE PILLAR OF SUPPORT FOR THE DEMOCRATIC PROCESS OR WHETHER THE AFP IS A MORE PERVERSE ENTITY, BENT ON A COURSE WHICH WILL ACCELERATE THE SPIRAL OF INSTABILITY.

WITH LESS THAN TWO MONTHS BEFORE THE BALLOTING, PRESIDENT

MARCOS HAS DIRECTED A REORGANIZATION OF THE AFP AND THE RETIREMENT AND REASSIGNMENT OF NUMEROUS SENIOR OFFICERS. IT IS TOO EARLY TO TELL WHETHER THESE CHANGES WILL BRING ABOUT THE TYPE OF PROFESSIONAL LEADERSHIP AND DISCIPLINED, EFFECTIVE MILITARY FORCES SO URGENTLY REQUIRED IN THE PHILIPPINES. WE WILL BE WATCHING THESE DEVELOPMENTS CAREFULLY AS THEY UNFOLD, LOOKING WITH PARTICULAR INTEREST AT THE PROFESSIONAL CREDENTIALS OF THOSE OFFICERS NEWLY APPOINTED TO KEY POSITIONS. THEIR PROFESSIONAL CAPABILITIES, AND THEIR FREEDOM TO ACT ACCORDING TO PROFESSIONAL STANDARDS, WILL DETERMINE HOW FAR THE AFP IS CAPABLE OF GOING IN RESTORING ITS DISCIPLINE AND EFFECTIVENESS. IN THIS REGARD, I AM PLEASED TO NOTE THAT A TOTAL OF 29 OVERSTAYING GENERALS HAVE BEEN RETIRED OVER THE PAST 13 MONTHS.

THESE DEVELOPMENTS COULD AUGUR WELL FOR A CONSTRUCTIVE ROLE IN THE ELECTORAL PROCESS. WITH A NEW PROFESSIONAL LEADERSHIP, THE AFP WOULD HAVE A UNIQUE OPPORTUNITY FOR A FRESH START. AS IN ANY MILITARY ORGANIZATION, CHANGES IN COMMAND CAN IMPART A FEELING THAT THE SLATE HAS BEEN WIPED CLEAN AND THAT THERE WILL BE NEW POLICIES AND PROCEDURES. WE HOPE THAT PHILIPPINE ASPIRATIONS FOR REAL CHANGE WILL BE MET; THAT THE AFP WILL ADOPT A NON-PARTISAN STANCE DURING THE ELECTIONS; AND THAT IT WILL BE AN EFFECTIVE SHIELD AGAINST ANY DISRUPTING EFFORTS OF THE COMMUNIST NEW PEOPLE'S ARMY (NPA).

THE REALITY OF THESE DEVELOPMENTS WILL, OF COURSE, BE TESTED DURING THE CAMPAIGN AND DURING THE CASTING AND COUNTING OF BALLOTS. PHILIPPINE AND U.S. OBSERVERS, AS WELL AS THE INTERNATIONAL COMMUNITY, WILL HAVE THE OPPORTUNITY TO EVALUATE THE AFP'S PERFOMANCE

AND TO RENDER A VERDICT ON ITS NEUTRALITY. THERE SHOULD BE NO DOUBT IN CAMP AQUINALDO AND IN MALACANANG THAT INTERNATIONAL SCRUTINY WILL BE CONCENTRATED ON THE AFP AS WELL AS ON OTHER TRADITIONAL ELEMENTS OF THE ELECTION PROCESS. NOTHING COULD BE MORE CONSTRUCTIVE FOR THE AFP THAN A POSITIVE EVALUATION, AND NOTHING COULD BE MORE DAMAGING THAN A NEGATIVE JUDGMENT. IF THE AFP IS PERCEIVED TO BE AN AGENT OF FRAUD AND CORRUPTION, IT DESERVES TO BE CONDEMNED AS AN ACCOMPLICE TO THE POLARIZATION OF PHILIPPINE POLITICS. ON THE OTHER HAND, IF THE AFP ASSUMES ITS RIGHTFUL ROLE IN PHILIPPINE SOCIETY AS THE NON-PARTISAN PROTECTOR OF THE LIVES AND RIGHTS OF THE PHILIPPINE PEOPLE, THE AFP ACHIEVEMENT SHOULD BE RECOGNIZED, APPLAUDED AND ENCOURAGED.

CONSEQUENCES OF A CORRUPT ELECTION

POLARIZATION -- THE INEVITABLE PRODUCT OF A CORRUPT ELECTION -- WOULD BE A WINDFALL FOR THE COMMUNISTS AND UNDOUBTEDLY ACCELERATE THE EXPANSION OF THEIR INFLUENCE AND ENHANCE THE PROSPECTS FOR THEIR ULTIMATE VICTORY. THE POSSIBILITY OF AN EVENTUAL COMMUNIST VICTORY AND THE RESULTANT TOTALITARIAN GOVERNMENT SHOULD BE A SOBERING PROSPECT FOR ALL ELEMENTS OF THE PHILIPPINE POLITICAL SYSTEM. RETRIBUTION WOULD BE INFLICTED BY THE COMMUNISTS ON ALL OF THE NON-COMMUNIST PARTIES: THE LIBERALS, THE LABAN PARTY, AND UNIDO AS WELL AS THE KBL. STATEMENTS BY THE COMMUNIST NATIONAL DEMOCRATIC FRONT ARE CLEAR ON THIS ISSUE; REPLACEMENT OF MARCOS BY A "BOURGEOIS REPUBLIC" IS UNACCEPTABLE. FROM THE POINT OF VIEW OF THE CPP, THE ARMED STRUGGLE WILL NEVER CEASE UNTIL THE LEADERS OF

THE CPP RESIDE IN MALACANANG AND ALL COMPETITORS ARE ELIMINATED.

UNTIL RECENTLY, IT WAS ASSUMED THAT THIS ELIMINATION OF COMPETITORS MERELY MEANT REMOVAL FROM POWER OR A POLITICAL NEUTRALIZATION. NOW, HOWEVER, AS WE BEGIN TO LEARN MORE ABOUT THE NPA AND THE CPP, THE PROSPECTS OF A COMMUNIST TRIUMPH BECOME MORE OMINOUS.

THE HARDCORE, DEDICATED LEADERSHIP OF THE CPP/NPA WILL CONTINUE ITS STRUGGLE AGAINST PHILIPPINE DEMOCRACY EVEN IF A MODERATE, NON-COMMUNIST GOVERNMENT SHOULD ACCEDE TO POWER IN MANILA. THERE SHOULD BE NO DOUBT THAT A PROFESSIONAL, COMBAT-EFFECTIVE AFP WILL BE VITAL TO ANY GOVERNMENT'S ABILITY TO GOVERN IN THE PHILIPPINES.

THE "NEW KHMER ROUGE"

THE GOALS AND METHODS OF THE CPP/NPA HAVE BEEN DESCRIBED IN DETAIL BY TIME CORRESPONDENT ROSS MUNRO IN THIS MONTH'S COMMENTARY MAGAZINE. WHILE I AM NOT READY TO ENDORSE EVERYTHING MR. MUNRO SAYS OR TO CONFIRM HIS DATA, HIS ARTICLE DOES PROVIDE AN IMPORTANT COUNTERBALANCE TO THE ROMANTIC IMAGE SOMETIMES ASSOCIATED WITH THE NPA. THE NPA IS OFTEN DEPICTED AS "NICE PEOPLE AROUND" OR A GROUP OF BENIGN REFORMERS. HOWEVER, MUNRO SHOWS A OTHER SIDE OF THE NPA: A RUTHLESSNESS AND A FANATICISM THAT HE BELIEVES CAN ONLY BE COMPARED TO POL POT'S KHMER ROUGE. THE "NEW KHMER ROUGE" IN THE PHILIPPINES -- LIKE THEIR CAMBODIAN COUSINS -- APPARENTLY DO NOT FLINCH FROM TORTURE AND SUMMARY EXECUTIONS WHEN THESE ACTIONS SERVE THEIR PURPOSES. MUNRO ASSERTS THAT THE NPA HAS

REACTED VIOLENTLY AND INDISCRIMINATELY TO THREATS AGAINST THEIR SECURITY BY DEMONSTRATING ". . . THEIR WILLINGNESS TO KILL ANYONE WHO MIGHT POSSIBLY HINDER THE CONSOLIDATION OF THEIR BASE AREAS. . . . THE NPA KILLED REAL, POSSIBLE, AND EVEN, IN ITS VIEW, POTENTIAL INFORMERS. IT KILLED AT THE SLIGHTEST PRETEXT JUST TO DEMONSTRATE ITS POWER AND COLDBLOODEDNESS. . . . IT (IS) CLEAR THAT THE NPA IS LESS INTERESTED IN WHOM IT KILLS THAN IN DEMONSTRATING TO A COWED POPULACE THAT IT IS READY TO KILL." MOREOVER, THE NPA'S ROBIN HOOD IMAGE HAS BEGUN TO FRAY AS ITS EXPANDING NUMBERS HAVE FORCED INCREASED TAX COLLECTIONS AMONG THE PEASANTS AS WELL AS THE RICH. CPP INSISTANCE ON TOTAL DOMINATION OF LEFTIST FRONT ORGANIZATIONS IS A GLIMPSE OF THE ABSOLUTE CONTROL IT WOULD IMPOSE ON THE ADVENT OF A "PEOPLE'S DEMOCRATIC REPUBLIC OF THE PHILIPPINES."

ENLIGHTENED SELF-INTEREST AND DEVOTION TO DUTY

AS A LEGACY OF 15 YEARS OF COMBAT AGAINST THE NPA, PHILIPPINE MILITARY OFFICERS AND SOLDIERS UNDERSTAND THE CONSEQUENCES OF A COMMUNIST VICTORY. THEY MUST ALSO UNDERSTAND, HOWEVER, THE VITAL IMPORTANCE OF A FREE AND FAIR ELECTION TO THE PREVENTION OF THAT OUTCOME.

IT IS OUR BELIEF THAT THE ELECTIONS AFFORD AN OPPORTUNITY TO DELIVER A VERY TELLING BLOW TO THE CPP/NPA. THAT WHICH WOULD STRIKE SUCH A BLOW WOULD BE AN IMAGE, BASED ON REALITY, OF A NONPARTISAN, SECURITY-PROVIDING AFP -- ONE WHICH IS NEUTRAL IN THE ELECTION BUT WHICH PROVIDES THE ENVIRONMENT OF SECURITY WHICH

ALLOWS THE PHILIPPINE PEOPLE TO EXPRESS THEIR WILL. A FREE AND FAIR ELECTION, NO MATTER THE OUTCOME OR WHO IS VICTORIOUS, WILL DENY THE CPP A MAJOR ELEMENT IN THEIR PROSELYTIZING CAMPAIGN. AS IN THE ELECTION OF 1984, THE AFP MUST DO ITS PART BY "REMAINING IN THE BARRACKS" -- BY THIS I MEAN PERFORMING A NEUTRAL ROLE -- DURING THE ELECTION.

THE LEADERSHIP OF THE AFP IS CONFRONTED WITH AN UNPRECEDENTED SITUATION. PERHAPS FOR THE FIRST TIME SINCE WORLD WAR II, PERSONAL AND PRIVATE CONCERNS ARE DIRECTLY LINKED TO LARGER NATIONAL INTERESTS. IN FACT, NEVER HAS ENLIGHTENED SELF-INTEREST BEEN SO WELL SERVED BY AN UNSELFISH DEVOTION TO THE GREATER WELFARE OF THE PHILIPPINE NATION. UNLESS NATIONAL INTERESTS ARE SUPPORTED VIGOROUSLY IN THE MONTHS AHEAD, THE PERSONAL AND PRIVATE INTERESTS OF THE PHILIPPINE MILITARY LEADERSHIP COULD BECOME IRRELEVANT.

OVER THE PAST TWO YEARS THERE HAVE BEEN CHANGES IN THE AFP, ALBEIT NOT AS RAPID AS NECESSARY OR AS FAR-REACHING AS NEEDED. NEVERTHELESS, WE BELIEVE THAT THE COMPETENT C ORE OF OFFICERS AND NCOS OF THE AFP WHO COMPRISE THE MAJORITY OF HE ARMED FORCES WILL DO THEIR PART TO ENSURE THAT, WHEN INTER TIONAL JUDGMENTS ARE RENDERED AS TO THE VALIDITY OF THE ELECTI N, THERE MUST BE NO QUESTION AS TO THE NEUTRALITY OF THE AFP.

The CHAIRMAN. Thank you.
Mr. Monjo.

STATEMENT OF JOHN C. MONJO, ACTING ASSISTANT SECRETARY OF STATE FOR EAST ASIAN AND PACIFIC AFFAIRS

Mr. MONJO. Mr. Chairman, I have been struck as I have been listening to Dr. Weinstein and my colleague, and some of the views that you and your committee have expressed in your letter to the Philippine Government by the similarity of the concerns and the general consensus on the situation in the Philippines and the fact that they are at present at a true watershed.

The election on February 7 which we welcome as a chance for the Philippine people to give a mandate to a president, and importantly, a vice president, to lead them for the next years, is truly a watershed. If the election is a free, fair, credible one, we are going to have a Government with which we can work easily and where the Philippine people themselves will be able to have a degree of trust in it. If, on the other hand, you do not, it will be indeed a very difficult future.

Our position with regard to the election is well known. We support the process and we are trying to work with the various elements in the Philippine society which are pushing in the direction which Mr. Weinstein and his group have described for us. This election will require a sustained national effort and a major sacrifice. The reestablishment of political consensus can be a significant move toward the solutions, but fundmental reforms will still have to be undertaken in a variety of areas following the election.

My colleague has mentioned the fact that the election in itself will be no panacea. Whoever sits in Malacanang afterwards will face a series of problems. The military one, the security one have been outlined for you. Also, in the economic area, the Philippines in the past 2 years has had a negative growth rate of about 5 percent for 2 years in a row. That also will have to be faced by the new Government.

In one area, however, a new Government will be, if elected in a credible election, a new Government will be much stronger, and that is in the political arena. If you have a credible Government, you are going to see a situation where there is a degree of support for the Government.

Since most of the areas, in fact, indeed, all of the areas of concern to us in the elections have been mentioned by Dr. Weinstein and his colleagues, and by Rich Armitage, I believe I will stop there, sir, leaving the time open for you and your questions.

Thank you.

[Mr. Monjo's prepared statement follows:]

PREPARED STATEMENT OF JOHN C. MONJO

Mr. Chairman, I am pleased to be here today to continue our exchange of views concerning recent developments in the Philippines and the implications for U.S. policy. Regular discussions with the Congress through open hearings such as this have helped to create a bipartisan consensus about the nature of the Philippines' current problems, the need for reforms to resolve them, our interests in the Philippines and our long-term objectives there, that is unusual in recent U.S. foreign policy experience. Some differences exist, of course, over tactics but we note broad agreement within the American government, and the private sector as well, about what our policy goals in the Philippines should be. We are also in agreement that free and fair elections credible to Filipinos are the key to resolution of that country's deep political problems.

I welcome the hearing as another opportunity to continue the close and candid dialogue that exists between the Executive and Legislative Branches concerning the Philippines. This hearing serves us well in deciding how we can best and appropriately work with the people of the Philippines and their government to help find solutions to their problems and protect the mutual interests of our two countries.

Mr. Chairman, your letter of invitation states that the subject of this hearing is the preparations for the Philippine presidential election scheduled for February 7, 1986 and related issues. Accordingly, my statement for the record will be relatively brief and will focus on the particular area of election developments.

Free and Fair Elections

As noted in our appearance before this Committee last month, the U.S. welcomes the prospect of presidential election in 1986. We believe such an election presents the Filipino people a timely opportunity to revive the democratic process and restore their faith in their government. In order for this to happen, however, we believe strongly that the election must be fair, free, and honest and be perceived as such by the majority of the Filipino people.

Our position with regard to the election is well known. We support the process. We are committed to the democratic ideal. We believe that all countries have the potential to govern themselves on the basis of democratic institutions. We are especially of the view that the Philippines, given its experience with working democratic institutions, has the ability to re-establish national consensus through the

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democratic electoral process. We will, therefore, seek in all appropriate ways to strengthen the electoral process. We are, of course, committed to work with any government that is the product of a credible election -- one which is perceived by the Filipinos to have been a free and fair contest.

I would stress, however, that the election itself, while an important step, is no panacea. The problems afflicting the Philippines -- in the economic and security areas -- are deep-seated and extensive. They will require a sustained national effort and major sacrifice. The re-establishment of political consensus can be a significant move towards those solutions, but fundamental reforms will still have to be undertaken in the economic area and the security area by whatever party wins the election.

Thus, an election will be particularly valuable if it helps to promote a national consensus and increase the momentum towards fundamental reform. But an election will be harmful if it is fraudulent, if it encourages business-as-usual attitudes, or fosters the illusion that the serious threat posed by the communist insurgency will disappear on its own.

Election Preparations

Preparations for next February's special presidential poll are now underway in the Philippines. Recent steps to prepare for the election include:

-- adoption of an election law by the Parliament (Batasan) which, together with the existing election code as recently amended, establishes the modalities for the election process and authorizes the necessary funding;

-- the new election law also provides for the simultaneous selection of a vice president as well as a president in observance of the constitutional provision concerning the important issue of succession;

-- filing of certificates of candidacy for the presidency and vice presidency;

-- nomination of President Marcos and Arturo Tolentino by the KBL and Corazon Aquino and Salvador Laurel by UNIDO as the two principal tickets to contest the presidential poll;

-- in the view of many observers the opposition's eventual agreement on a unified ticket substantially increases the

prospects that a meaningful choice will be presented to the voting public next February; and

-- launching of election campaigns by both the KBL and UNIDO.

Taken as a whole, these developments are an encouraging sign that some of the essential components of a free and fair electoral contest are beginning to fall into place.

The Constitutional Issue

A major unanswered question, however, is the issue of the constitutionality of the election itself. A group of Filipino citizens, including representatives from the opposition and, until recently, Marcos' vice-presidential running mate and former Foreign Minister, Arturo Tolentino, have questioned the legality of the new election law. The issue is whether the constitution requires the resignation of President Marcos as a precondition for calling a special election. The matter is now before the Supreme Court and hearings will start December 17. The court will determine whether or not the electoral process can go on.

Potential Problem Areas

There are several potential problem areas with respect to election preparations which continue to be a source of concern. Their satisfactory resolution is crucial to the conduct of a fair, credible election in February. Without their resolution, I believe it would be fair to say that many, if not most Filipinos, would not find the election acceptable.

First, the two remaining vacancies on the Commission Elections (COMELEC) remain unfilled. President Marcos has stated publicly that he intends to appoint a representative from the opposition and an independent to these positions. An impartial COMELEC is essential to the credibility of the election process.

Another unresolved issue is the matter of the nation-wide accredition of NAMFREL, the leading citizen's election watchdog group. The Commission on Election's (COMELEC) resolution on accrediting a citizen's arm is non-committal on accrediting any national organization and does not clarify that more than one citizens group can be present in a given voting center. Also, the resolution requires the submission of the names of the members of the organization in advance. Concern has been expressed that these lists could be use to intimidate NAMFREL workers prior to the election.

The provision in the new election code allowing Barangay (village) officials to be watchers and inspectors in the voting centers has also prompted many complaints. It is feared that the presence of these officials, who are usually government loyalists, could intimidate the voters -- especially in the rural areas. We note that a similar provision existed in the 1984 election law and that COMELEC passed a resolution a month before the election prohibiting village officials from being poll watchers and inspectors. Whether COMELEC would consider taking similar action for the upcoming election is uncertain.

Equal access to the media is another issue that remains to be clarified. Opposition ownership of the media is minimal. In the interests of fairness, it is important that arrangements be made so that opposition representatives can present their views to the public through radio and television on an equal basis with the ruling party. COMELEC has issued a resolution authorizing a half-hour each day in prime TV and radio time for candidates to air their opinions. It is unclear, however, how the "COMELEC" time is to be utilized and distributed among the candidates. Already, there are allegations that TV coverage of opposition activities is being restricted.

Role of the Military

The observance of a politically impartial role by the Philippine military will be central to the integrity of the electoral process next February. President Marcos has specifically ordered that all soldiers be confined to their barracks during Election Day, except when needed to safeguard the balloting from disruption and only when deputized, in accordance with the law, for that purpose by COMELEC. Faithful adherence to this instruction will be a key indicator that the government is seriously committed to fair and credible elections.

In this connection the recent reinstatement of General Ver as Chief of Staff of the AFP has raised concerns in the Philippines regarding the military's posture towards the election. Since the resumption of his duties General Ver has been charged with reorganizing the AFP, including revamping most of the senior military leadership. Initial assessments of the AFP leadership changes announced to date are mixed. The process of rebuilding the AFP is long overdue and will take a long time to complete. It is too early at this point to reach any definitive conclusions about whether or not the new appointments represent a first step toward fundamental reform.

We note with interest a recent presidential palace press release indicating that General Ver may retire before next February's poll. In the view of many observers in the Philippines, such a development would enhance the prospects for a free and fair electoral contest.

Conclusion

I have only had an opportunity to review very briefly the findings of the Center for Democracy's trip report. It appears to be a comprehensive and thoughtful assessment and Dr. Weinstein and his associates are to be commended for their fine work. I would also note that while we share the Center's concerns about some of the potential problems with the election preparations to date, we also believe that it is important at this juncture to avoid premature conclusions about the probability of a free and a fair electoral process until all the preparations have been completed. We find it noteworthy that all democratic opposition groups, unlike 1984, are planning to participate in the electoral process.

Our basic concern, I repeat, remains that election process be free and fair. If the election is to re-establish confidence, it must be credible to the Philippine people. A newly elected government, no matter who emerges victorious at

the polls, must have such credibility to be able to resolve the myriad problems the Philippines is now facing, and to restore stability and growth.

Finally, I would emphasize that the outcome of the election is for Filipinos to decide. The U.S. focus will be on the integrity of the process. We cannot and will not be drawn into a partisan role. We are prepared to do all that is appropriate for us as a concerned ally to support the electoral process. This would include our willingness to send official U.S. observers to the elections, providing there are decent prospects for fair and credible competition at the polls.

The challenge to President Marcos and the opposition, and perhaps, most importantly, to COMELEC and the thousands of citizen election monitoring volunteers during the presidential election is to fulfill the trust the Philippine people are still willing to put in the democratic process. With sufficient good will and political courage, next February's contest at the polls can be the key to Philippine recovery. But only the Filipinos can move themselves, and their nation, down that difficult road successfully.

The CHAIRMAN. Thank you very much.

For the moment, we will proceed with the questions of Senators to the two of you and then proceed to question the panel, and I will ask the timekeeper to have a 10-minute limitation, by unanimous consent, on this round of questioning.

Mr. Armitage, when you last appeared before the committee discussing the security situation, you pointed out the importance that this country places upon reform of the military in the Philippines for the safety of our bases. Clearly we are interested in that reform because we believe it would enhance the safety of Philippine citizens. As you point out, the insurgency continues, and there may have been even some erosion of control since you appeared last time. And this indeed may be a threat to the election procedure in some areas.

During the course of that hearing, and this was prior to the time of the conclusion of the trial that involved General Ver and others, we discussed the nature of reform, how it was proceeding through some junior officers and some who were senior, too. It seemed to me at the time, and I said so, that the reinstatement of General Ver would be a very unhappy and unfortunate circumstance in terms of any credibility on the part of President Marcos that reform is going to continue.

We are interested in reform because we believe it will be good for our friends in the Philippines. We are also interested in reform with regard to the security of the United States and the interests that we have there and the lack of ability, apparently, of the Philippine army even to conduct its operations.

Now, since that appearance last time, General Ver has been reinstated. It is apparent that this committee really had no particular sway over that, and a lot of other people. He is back, he is there, and we hear from time to time rumors that his longevity might be short, but as you point out, there have not been many changes, very few.

Now we come to the election situation. I think the commission has put a minimal list of things that need to occur for credibility of that election. As they report, it is not at all clear, even as of December 18, that these things are going to occur. As a matter of fact, given the truncated time, an election that President Marcos called, not by constitution but essentially a timetable set this way, it is not clear really how credible that is going to be either.

I must say that I just view the situation with some alarm because I think we have not made headway really in making an impression on the need for some type of reform in the armed forces. And now, as you say, the whole honor of the armed forces is at stake as they come down the trail toward February 7, under great pressure. It is not clear at all how the president of the country is going to handle this situation, and I am not certain how people in this country get their message through.

You know, I just have the continuing suspicion that we are not making it in terms of the communication.

Now, I am grateful the commission went, and I am going to commend them some more. I think the fact that they went created some attention in this country as well as over there, but I need some counsel from you as one who has dealt with this situation

much longer than many others of us; how do we get the message to the president of the country that a lot is at stake, including the relationship with this country as well as the security of his own country?

Mr. ARMITAGE. I would not dare give you advice, Mr. Chairman. I will, however, say three things if I may: First that, as you said, the reform in the Armed Forces of the Philippines is something that we strongly desire for two reasons and the first and foremost being the good of the Philippines, the Filipinos, and then second, for our own good, very selfishly, for the protection of our bases.

As to how you get the message through, Mr. Chairman, you have gotten the message through. We have gotten the message through about our beliefs and our concerns concerning General Ver. Getting the message through was not the problem; getting it accepted perhaps is the problem, and apparently it has not yet been accepted.

The Congress, sent another message recently when it further cut the administration's request on security assistance to the Philippines. I think that action was very directly tied to the Congress' view of the perception of business as usual with General Ver in the position of leadership of the AFP.

That signal was not missed at all in Malacanang or throughout the Philippines.

We see, as you do, indications of the imminent retirement, of General Ver. If you had asked me 2 weeks ago is it going to happen soon, I would have said probably within a week. If you had asked me last week, I would have probably told you yes, today. But it has not happened yet, and the Monday New York Times story had the President saying he doubted that General Ver would be in the position of chief of staff during the February 7 elections, and indeed, his fate may be decided next week or in 2 weeks.

If you ask the administration's point of view on the ability to have a fair and free election with General Ver as chief of staff, obviously all of us will turn to the Filipinos for that judgment. But from our point of view, it is very clear that General Ver's incumbency is not in the best interests of the Philippines or in helping the international perception of the situation in the Philippines in any way, shape, or form.

The CHAIRMAN. Do you have any comment, Mr. Monjo?

Mr. MONJO. Yes, sir.

Well, I think again, as Mr. Armitage has said, there have been many statements about when General Ver might or might not end his tour, and until such things happen, I think we have to maintain an open mind.

The very fact that there is an ongoing action and such a lively election shaping up I do believe is a positive sign that the political forces in the Philippines are at least gearing for a real election. This time you do not find important voices saying, let us boycott. Therefore, I think you have made your views known, we have made your views known. The very process that Dr. Weinstein and his colleagues are suggesting as to a continuum of the United States making its views known and taking up on what seems to be an open invitation to observe may be a positive force.

The CHAIRMAN. Mr. Armitage.

Mr. ARMITAGE. Without taking any more of the time, I will just state that reform as regards the leadership, which I have stated publicly, is the sina qua non of professionalism in the military. But it has not been as rapid or as far reaching as we would like by any stretch of the imagination. At the same time, it must be said that some reforms are in place, and some of the members on this committee have recognized that program. And I am thinking here of procurement reforms and things of that nature.

If we are unsuccessful or as unsuccessful as we appear to be with leadership reforms, we are still going to press with the other aspects of reform, to include behavior toward the civil population and things of that nature.

The CHAIRMAN. Let me just add one more thought, and that is that even in the event that General Ver should leave his present post, it would appear that a number of people associated with his regime remain. In fact, some may even have come into place in the course of some of these changes recently.

And therefore, I suppose you have perceptual problem still in which we are really talking not about the single General Ver situation that is there at the top, but a whole raft of people. We are talking about reform in the situation, a short timetable, not one we chose, one the president chose.

You know, if he wants to have an election on February 7 and have a perception of reform, that is the timetable he has chosen, and it seems to me the urgency of the reform is clearly his option, but it is also in our interest.

So we are agreed on that. The administration's perception is the same as the one that I am stating, I gather.

Mr. ARMITAGE. And the important word is the perception, Mr. Chairman. We have stated that General Ver is not responsible for all the ills which plague the Armed Forces of the Philippines. No single person could be. They are enormous and very far reaching, and the reforms necessary to bring them out of that very bad situation are going to be enormous and very far reaching and take a lot of time.

The CHAIRMAN. Now, let me make just one other observation. This is tangential, in a way, to our hearing today.

We had a debate on the floor of the Senate during the farm bill. For various reasons, an issue arose with regard to sugar allocations to the Philippines. Perhaps in the course of equity, more should go to the Philippines, or less, I do not know. That was not the argument. The Senate turned it down cold by about three to one on an argument that centered about President Marcos, his cronies, corruption, the thought that in no way should we add even one pound of sugar to that situation.

Now, I hope the President of the Philippines heard that debate, heard about it, heard the nature of it.

Mr. MONJO. They listen to what you say very carefully, sir. Whether they wish to accept the message or not is another question, but what is said in this House and what is said by the executive branch is very much and very fully reported in Manila.

The CHAIRMAN. Thank you.

Senator Pell, I greet you and ask if you have any opening statement.

Senator PELL. Thank you, Mr. Chairman. I have no statement, and I will await my turn for questions.

Thank you, sir.

The CHAIRMAN. Very well. Thank you.

Senator Pressler.

Senator PRESSLER. Well, let me say that I have been listening to and concur with Senator Lugar's remarks, but since this hearing is on the election overview or this practice of having election observers and so forth, is it not possible that the United States is in some ways undermining a process by setting impossible standards? For example, in the literature about elections, we talk about other countries having one man, one vote, whereas our constitutional founders clearly prohibited that and in the State of Vermont, one man's vote might be worth 40 men's votes in a U.S. congressional election, for example. In our electoral college we do not have one man, one vote.

In the Congress of the United States, it is specifically set up so we do not have a one-man, one-vote situation. But all this was built in for the protection of minorities and so forth. Let's say we were to call a snap congressional election next February. We would have no assurances for equal access to the media. The equal time rule does not apply to news broadcasting. There might be in some nationwide races, but we do not meet that standard at all unless you can buy the time. The incumbents would have the franking privilege. What if there were international observers applying these same standards to our elections? And you can go on through, whether it is consistency rules, getting nominated in some States by a convention, in others by primary. In some States you have to be registered with a party four weeks before; other States you can cross over.

The same standards we are setting up for Guatemala or the Philippines, and maybe we are actually undermining democratic processes by setting standards that we do not meet by any means, and most Western democracies do not meet.

What is your feeling about that?

Mr. MONJO. I would say that if you look at the thoughts outlined by The Center, these are goals the Philippine people have set largely for themselves. None of those are things that do not arise out of the desires of our own body politic. I mean, they quote Tolentino, the KBL candidate for vice president as saying, well, NAMFREL did very good job and you people, when you come to observe, you ought to go out into the areas where there may be more difficulties. I believe that what one hopes for is not perfection but a degree.

At the very beginning when President Marcos announced there would be snap elections, he said they would be January 17. The opposition said that is much too fast, they would like March. February 7 is the date, and it has been accepted. There is a process of negotiation that goes on in that country. When they speak of access to the media, I think in some cases what they are saying is even if they come in with their money they cannot buy it. It is not that there should be a mandate.

Senator PRESSLER. That is true in this country, too of course.

Mr. MONJO. Yes. I am not saying that we are perfect and have the right to point the finger. I am saying those are the things that Filipinos seem to feel will make a relatively level playing field, knowing there is not perfection. And I think therefore we are weighing in where they are weighing in, not simply setting up, you know, perfect goals of our own.

Mr. ARMITAGE. Regarding the Armed Forces of the Philippines, I think we have a very deep understanding that nothing is ever going to be perfect. It is not perfect in our military, it will not be in any military. But I would not agree with anybody who would state that we were setting impossible standards for the AFP. I think we are setting very reasonable standards for a professional behavior.

That is why I am not in a position to particularly criticize the individuals who have been moved into some positions of power in this recent reorganization. They may be tied to General Ver or to someone else. I am more interested, however, sir, in their professionalism and how they perform.

So I think we do apply the rule of reason and not particularly impossible standards regarding the AFP.

Senator PRESSLER. Well, there seems to be sort of a magic about these elections. You know, if other countries sent observers to our country, we would probably be very offended. I just wonder, in terms of long-term foreign policy development, if we are not sometimes undermining some of our own goals with some of these standards which even we do not come anywhere near meeting.

Mr. MONJO. Well, I believe that, as has been noted, observers have been invited. I mean, it is not a self-invitation, and I believe that certainly the people from The Center and those, if the process continues, sir, that would be from the republican institute and the democratic institute, would send some people out in the early weeks of January. This would be followed by a larger group, and somewhere along the way there would be a recommendation, if it were appropriate, that senior people from the Congress and perhaps other parts of our life here in the United States go out there.

I think all these people would be men and women of reason who know the imperfections that exist everywhere. I do not think—I would not expect an ivory tower sort of situation, sir.

Mr. ARMITAGE. Your comments are a good caution, however.

Senator PRESSLER. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Pressler.

Senator Dodd.

Senator DODD. Thank you, Mr. Chairman.

Let me first of all—we will get to the other panel, but I think they just did an excellent job, Mr. Chairman, in a very brief amount of time to have put together this report. I think it is remarkable, and the fact that it is bipartisan as well; and the suggestions and comments in here are just excellent, first rate, one of the best things I have seen done in a long time.

Let me, if I could get the two of you to comment on something. As I listened to the chairman I sort of was listening to myself, heard myself, not just on this situation but on others where we have, around this committee table, from time to time talked about what we could do to convince people in Central America or other parts of the world to do certain things, and I agree with him on

everything he said about trying to get the attention of President Marcos. But as I was listening to him, I was thinking that it sort of underscores the problem that it is not really a question of what we can do, it is what he feels he should do or what he wants to do, what he would like that country to look like, what he would like this election to be, how he would like it to be conducted, what he would like to see come after it.

And I for one really question—and we all seem to be agreeing that we can—whether Paul Laxalt can convince President Marcos to have an election? Can the Senate Foreign Relations Committee browbeat President Marcos into believing he ought to conduct a fair election? Can we cut off sugar supplies and so forth? Is that really going to do it?

Well, we may be successful. Apparently we got them to hold an election.

Why did it take that? What is going on? I mean, is there—is it really—are we being honest with ourselves is what I am driving at. If it does not come from him, if he does not sense it and feel it but only does it because there is a danger of losing some military aid or a quota on sugar or because the President of the United States is going to be upset with him, is there any guarantee at all? Can we be assured in any way whatsoever that we are really achieving what I think we would all like to achieve, and I may not have articulated that as well as I would like, but do you see what I am driving at? And what would be your comment or response to that?

Are we not really deluding ourselves? Is it not a fact that really, no matter what we do here, President Marcos is going to do exactly what he wants to do. He will try to appease us, make us feel better, and at the same time hold all the power he can, retain his position as President of the country and allow his cronies to continue doing what they are doing.

Mr. MONJO. I think obviously there is a limit to the influence of any country, although we have a very special position in the Philippines.

I would note also that President Marcos has to take account of the views of his own society. As I noted earlier, I think where we are weighing in, is areas where people in his own party have been weighing in with him to some extent, and certainly people from the opposition.

When we speak about opposition, we mean the moderate opposition. The people up in the hills, the Communists, have a totally different vision of the Philippines. Their vision is Vietnam or Cambodia or something totally different. So when we speak of opposition, we mean the people who run in elections.

I would agree that I do not think any President is going to do something just because of our sugar quota or one or another specific thing, and obviously any man who runs for election hopes to win.

Senator DODD. Well, is there any doubt in our minds at all that we are having an election on February 7 because Senator Laxalt went over and told him he ought to? Was that Marcos' decision because he thought he ought to have an election, or was it because he was frightened President Reagan would be angry at him?

Mr. MONJO. Obviously, to put yourself in another man's mind is, I think, not a possible thing, but the need perhaps for a renewed mandate—and I am not so sure that is just simply because of the views of the United States, but because of the developments in his own country—may have been one of the factors. He did not share with us the background that led him to that decision.

Mr. ARMITAGE. Your remarks are indicative of a certain frustration that is felt by you personally, by, by all of us; frustration that we are not omnipotent and we cannot have things our way. You are exactly right, President Marcos or any president of any country is going to do exactly what he feels is best.

We have, however, on the margins, had an effect. The chairman asked a question about reform and whether the message getting through? Well, the message is getting through, but how much has been accepted is the question. In the military field, the President has called for a reorganization and a revamping of the AFP. So he accepted part of it. I do not know how much of it.

I will tell you, I hope the next time I am up here, I hope I will have a better idea. The same is true across the board.

We have argued, Senator Dodd, that security assistance is not much of a lever. It is not going to force the President or anyone to do what he does not really feel he has to do. But our comments that accompany presentations on security assistance and things of that nature are a message to the Filipino society as a whole, to the members of the armed forces, and to the members of the opposition across the board. This does help increase the sum knowledge of their understanding of the problems, and I think in some way does have an effect on the President's judgment and would have an effect on any President's judgment.

Senator DODD. Well, I understand that. But I think we can kind of go back and forth, and I, by the way, do not fault President Reagan or Paul Laxalt for doing what they did. I happen to think they did the right thing. I am really questioning myself because I have certainly suggested that similar types of tactics be used other places. I am questioning whether in the final analysis it really gets us to where we want to be politically in these countries.

You know, my sense of it is here that while I am sure there were other considerations that may have caused President Marcos to decide to have the election on February 7, to agree to some of the so-called reforms within the military and so forth, that if you really came down to it and had to decide why he did those things, he did those things because we were browbeating him; if he is only doing it for that reason, then even if he wins a free and clear election, assuming the committee's suggestions are put together on the ballots, ballot boxes, all the watered paper and ink and everything else, were all satisfied, absolutely, that is done, President Marcos wins a fair election, what happens? Have we really achieved anything at all, or are we going to be right back where we were before?

Mr. MONJO. I would like to note that whereas Senator Laxalt in his mission made clear to President Marcos that the concerns in our body politic went right up through the White House, it was not just layered, he did not specifically say, you know, have an election. There was nothing as direct as that.

Senator DODD. Well, you did not have to be a dummy to understand what the message was.

Mr. MONJO. But if one looks back—and Richard has pointed out some of the progress, limited though it may be, in the military arena. In 1984 their own people wanted a reasonably fair election, and we leaned in, the Congress passed a resolution, and Cardinal Sin called it the best election they had had since independence. This is not to say it was perfect, but in a mixed world. The press, although limited, is more open than it was. There has been some degree of movement.

To touch on your question what will happen following an election, I think at a minimum, if it is a free, fair election and fairly won by whomever, that you will have a person that has a degree of a mandate, and perhaps that person will have an easier time getting the economy going again, getting investment to flow back in rather than flow out, dealing with the varying problems in the country because there will be a political basis.

Mr. ARMITAGE. If I may, Senator Dodd——

Senator DODD. Yes.

Mr. ARMITAGE. There is great frustration in making foreign policy because it is an awful lot more fun to sit and approach it academically and come up with the right solution and not have to put it into effect. There's the rub.

What happens if we have a free and fair election. I will tell you what happens. First of all, whoever gets in Malacanang is faced with enormous and far reaching problems across the board. You have got local elections coming up in May and other things. But what you have done to some extent is blunted the momentum that the CPP and the NPA have achieved from being able to talk about how repressive the political situation and environment is. That is a plus.

So there is a small gain and an enormous field of problems that exists for whomever is going to be in that chair, and that is tough. It is a tough problem for us and for you because we are going to be here no matter who wins trying to address the economic and the security assistance problem, and appealing to you for your support. And we are all going to have to go through this for a long time to come.

Senator DODD. Let me just ask one quickly before the red light goes on.

Mrs. Aquino suggested the other day that if she were elected, one of the first things she would do—and I am paraphrasing her remarks—would be to try President Marcos.

Does the State Department have any comment on that particular——

Mr. MONJO. I think we had best stay away from the legal implications of what she might ask the law to do there.

Senator DODD. Well, there has been some suggestion that that may cause the election to be postponed, the president suggesting, I do not necessarily want to go into an election if I myself am going to be arrested the next day.

Mr. MONJO. Well, it is difficult to comment on that, and obviously there is a legal system there that anyone would have to go through under any kind of a charge.

Senator DODD. Well, we all face comments by our challengers. [Laughter.]

I do not know if I would like the idea if my opponent was suggesting he would arrest me the next day, if elected.

Did you have any comment on that, Mr. Secretary?

Mr. ARMITAGE. I was just going to make basically that remark. Having written many campaign promises, I am glad I was not held to many of them, or at least held to all of them.

Senator DODD. Do you see any danger, though, of the election being postponed because of a statement like that or President Marcos using that as a——

Mr. MONJO. I do not see any specific danger in that. I mean, as you know, the option remains open or the possibility remains open that the election will not take place. There is before the supreme court a case as to whether or not it is constitutional, or at least constitutional the way he chose to resign, and the supreme court includes a fairly large group of judges that he appointed.

Senator DODD. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Kerry?

Senator KERRY. Thank you, Mr. Chairman.

First of all, I would like to thank you, Mr. Chairman, for your strong comments on this subject today and also for your leadership in helping put together the effort which I think is, as Chris has said, first rate and extremely productive.

And I also, Mr. Secretary Armitage, would like to thank you for your continued directness and candor on this subject. I think you have always dealt with us very openly on it, and I appreciate it enormously.

I was struck again by, by your candor this morning, in your assessments of what is happening in the Philippines with respect to the continued insurgency and lack of reform within the military. I just want to ask a couple of quick questions that I think bear obviously on the election, although they are not directly election-related.

First of all, is it your assessment that the rate of the insurgency is greater than or the same as you have perceived it up until now?

Mr. ARMITAGE. It is approximately the same, and I would put it a figure of about 20 percent. I would like to have had the new figures on the insurgency for you, that is, the number of new people's army full-time guerrillas under arms. I have some figures, and they are greater than the 16,500 I indicated earlier this year but I am not fully confident of them. So I hesitated to give you figures this time.

Senator KERRY. OK, but there is a clear awareness and analysis made with respect to a shift, I take it, in some of their strategy at this point and in their daring and bravado and willingness to be more overt in their activities?

Mr. ARMITAGE. I would say it is more than daring and bravado. Ambushes and things of that nature are not made through daring and bravado, but it is a matter of confidence, they get more confident in their techniques, and that is why I mentioned the two——

Senator KERRY. But there is an escalation in military strategy.

Mr. ARMITAGE. Yes, it is an escalation indeed, and it follows on what I previously testified to about being able to communicate better tactically.

Senator KERRY. And now let's assume that one of two things happens, either the efforts of The Center and this committee lead us to draw a conclusion that this election cannot be fair and we somehow, in whatever form the committee agrees on, so declare or so state prior to the fact; or the election goes on without such a statement, there is an election, at which point a judgment is made as to the fairness, and it is concluded that it was not fair, and blatantly rigged or whatever. Marcos continues in power, claiming a legitimate election, and we contest that.

What is this administration's response to that?

Mr. ARMITAGE. Well, I will try to answer in the candor which you have attributed to me, but hypothetical questions are not my strong point, nor are they any policymaker's strong point. You can only get in trouble.

I have to say that we are putting all our efforts into doing what we can to assure freedom and fairness in the election, so we can start from there.

If there were a blatantly unfair election, blatantly unfair even by past Philippine standards, I think that it would be clear that the administration would find it enormously difficult to be able to consistently get the funds to support our own bases in the Philippines. I am talking about the military construction funds which are absolutely necessary to continue our own operations. Certainly the enormous difficulty that we already have in getting security assistance funds would be increased by some exponential number.

The practical effect is, I think, that the Congress would be so irate as to make it almost impossible for the administration to come up and argue for funds either for our own forces in the Philippines or the security assistance or economic funds. Clearly, a blatantly unfair election would force us to really reevaluate the effectiveness of what we have done and what you have done because we would have to consult with you.

But I hope you will not hold me to going much farther than that.

Mr. MONJO. Please remember that in the 1984 elections, before they took place, there was a very gloomy estimate, and it turned out to be a better election. So one does not have to assume in advance that we have a worst case scenario to face.

Senator KERRY. Well, on the other hand, we had never been involved in making quite as significant and I think as serious an effort of setting up some benchmarks for judgment as far in advance as we are now, so we may have a much better readout on this.

Let me come back to that other question, Mr. Secretary.

Apart from base construction funds and apart from base rental funds, again making the same assumption, and we agree it is an unfair election, would the administration want to come to us to request these funds?

Mr. ARMITAGE. In my view, we would be asking for something, and I am not sure whether it would be an actual appropriation or just the authority, with the appropriation coming perhaps at a later date or something.

I want to make a point. I think it is very germane to what you are suggesting. That is, no matter how the elections turn out, as we have stated today, it is not over, and the administration cannot, if it is a blatantly unfair election, just throw up their hands. It is not fair to the Philippine people, it is not fair to us. The economic problems that exist, regardless of how the elections are held, and there are certainly military problems and things of that nature, and we are going to continue to work them as best we can. That does not mean to say that the administration says fine, let's have an unfair election and we will be up here just like we were last year for the same amounts of security assistance funds and things of that nature. We would be foolhardy to do that.

But I want to point out that we are still going to have to work the problems.

Now, we have got international institutions that are involved, and so forth in the economic arena. So the election is not the end of the problem, no matter how it turns out.

Senator KERRY. What is the most significant leverage in your estimation that we have with respect to affecting the Marcos government?

Mr. ARMITAGE. In my view, it is simply the affection, mutual affection between the Americans and the Philippine people.

Mr. MONJO. Yes, what we say counts. The very fact that you are the people they would like to invite to go out there and observe, what the American press says, what the Congress specifically says, what the President of the United States says counts a great deal. I think it is also that, and there are 1 million Filipino-Americans in this country. There is a cousinship tie that is pretty important, too. It is not just specific sums of money, although they count, too.

Senator KERRY. Well, is there—I mean, what would you say beyond that? Obviously that has not counted enough with President Marcos. Is there something else? I mean, given his IMF problems, the current economic problems, capital flight problems, is the money a critical lever with respect to his actions?

Mr. MONJO. We have, of course, through the IMF, where as you know we worked with them and they put together what is considered one of the tougher agreements they have ever negotiated. We tried and I think to some extent succeeded in joining in in the leverage to open up their economic system. In our Public Law-480 assistance we had very specific linkage.

Senator KERRY. What I am really asking you—let me kind of rephrase it. Is the cutoff of economic assistance, ESF and/or the withholding of military aid, if we were to say we are going to authorize it but we are not going to appropriate it until such moment as X, Y, and Z happen, is that leverage or is it not?

Mr. MONJO. It is leverage that cuts two ways, I think, sir, because on the one hand, on the military side, if you stop altogether, you have disconnected yourself from their military in which there are many strong professional elements. If you step back from the picture, do you have any leverage left, or have you used your one lever and then it is gone, anything we do has an effect, but I think it is also true that if you are trying to help a country effect reforms, if the society, in a financial sense becomes bankrupt, they are going to have a tough time doing it.

Senator KERRY. Would you say if the election takes place, and again, it is deemed by most reliable sources to be unfair, are we worse off than we were, than we are right now?

Mr. MONJO. Oh, yes, I think so.

Senator KERRY. We are worse off?

Mr. MONJO. Well, I think that because it is a watershed, because it is an important—I mean, you have a major election. You have President Marcos, you have Tolentino, who is a very respected man. The opposition has put together what clearly could be their strongest ticket, Mrs. Aquino, who has her special credentials, and Laurel, who has a history and an organization—if that sort of an election is judged by Filipinos first and us second as not being fair or credible and not giving a proper mandate to the one elected, I think we and—they are in a harder situation.

Senator KERRY. Is it also fair to assume that if that does take place and these hopes of the watershed are dashed, that the probability is NPA recruitment and success would increase as a consequence?

Mr. MONJO. I belive so.

Mr. ARMITAGE. I have already said this would be an enormous boon to the NPA and the CPP.

Mr. MONJO. Society will tend to polarize.

Mr. ARMITAGE. It would be a capital boon to them.

Senator KERRY. Thank you.

Thank you, Mr. Chairman.

Mr. MONJO. May I add one point here? We have been talking about the NPA. Let us remember that the Communist Party of the Philippines has the NPA as its military arm. It also has front organizations. It is far from clear that they are planning to take over the country by military attack. It is one and the other working together. So we must remember that they are working in a series of fields, all with the same goal, to sit in Malacanang Palace.

The CHAIRMAN. Senator Pell.

Senator PELL. Thank you, Mr. Chairman.

There is one question, it is a mechanical one, I guess, but as I understand it, a whole lot of computers are going to be brought into 300 election spots. You have what they call Operation Quick Count, to avoid fraud. To do that they need software and computers. My understanding is that the money for those items has not been appropriated at this time.

How can they possibly get them into place within a 6- or 7-week timeframe?

Mr. MONJO. Well, I subscribe to Dr. Weinstein and his colleagues' big question mark that they presented to you.

Senator PELL. Thank you. That is all I have at this time. Mr. Chairman.

The CHAIRMAN. Gentlemen, we thank you very much for coming to our hearing.

If you have no further comment, I will ask the panel to come back to the table, and we will get back then into the details of the election.

Mr. ARMITAGE. I would ask that our formal statements be submitted to the record.

The CHAIRMAN. Without objection, they will be included.

Mr. ARMITAGE. Thank you very much, Mr. Chairman.

Mr. MONJO. Thank you, sir.

[Pause.]

The CHAIRMAN. Dr. Weinstein, we thank you again for your patience as well as your report.

We would like to proceed now with questions that are prompted by this report and our natural curiosity.

Let the Chair at this point adopt a different order with regard to questioning. Members of the panel up here today have been patient, too, and I am going to ask that we work from less seniority back to the center as we work with the panel, and ask Senator Kerry if he has initial questions at this time to the panel.

Senator KERRY. Thank you, Mr. Chairman. I appreciate that.

Senator DODD. I wonder if this should go on very often.

Senator KERRY. Well, I would do this frequently. [Laughter.]

The CHAIRMAN. All right.

Senator KERRY. I really want to thank all of you for what you have done. I think it is a terribly important service, and it really does assist us, and I think enhances the work of the Foreign Relations Committee and indeed of the Congress to be able to get this kind of expert bipartisan input. And I think you have done yeoman's duty. I read your itinerary and schedule. It was a lot of meetings in a short period of time, and I really want to thank you for it.

I have been perusing your report here during part of the testimony, and I guess I am disturbed, very worried about what I read in it. It goes back to what the chairman has said about whether we are really getting through, and I have grave reservations on the basis of what you have come back with, although you have not said it in those terms, I read it as such, grave reservations about the ability of this election to be fair and credible.

Let me just summarize, if I can. You laid out about 10 different areas of preparations. No. 1, and I will try to be very quick, but I think it is important to review them. No. 1, no new watermark on the ballots. They say they need 90 days. Senator Dodd has questioned this issue of commitment. It seems to me if you are committed in this day and age of modern technology and of ability to do things, if they are committed, I cannot understand why you cannot get a new ballot or a safe ballot. Does not have to go back to 1984 and the prior ballot, and I worry about that, and I seriously question what that signals.

No. 2, Operation Quick Count, no funding as of yet, no training as of yet, no equipment purchased, no data entry personnel hired, no contracts signed, serious reservations about the ability of people even with all the best intentions to be able to put into place in this short period of time the ability to count quickly.

No designation of the dominant opposition party. Now, there is not any doubt in the Philippines who that party is. There is only the UNIDO ticket that stands out as the major party ticket here. And why that has not happened, though it may happen, I do not even see that as critical, but another signal of procrastination.

Serious issues about the role of the military. You have raised them. They are very serious. There were accusations in the 1984 election of military walking off with ballot boxes, of people being

chased away from polling places, being told that the NPA was coming, and then the military went in and voted for them, all kinds of issues about the civilian defense force let alone the regular forces, the FP.

The names of NAMFREL poll watches have to this time be submitted ahead of time, which many people believe will leave them open to intimidation and to influence prior to the fact. That has never been the case before.

Ballot boxes—it seems to me again that a super effort could be made to provide those ballot boxes. That might be a better spent form of assistance by the United States than others. But that it seems is of serious concern.

Ink, the ink was removed last time by acetone. There is no guarantee yet or no real definition as to what system will be set up to guarantee that the same mistake of a bad batch will not exist again.

Registration, one of our criteria set forth by the chairman and others was that procedures for accurate and complete registration of eligible voters in a manner which precludes addition of unauthorized transient voters. Well, I would question whether 2 days of registration, the 21st and the 28th, with four photographs, fingerprints and signature, given the nature of the Philippines, is a realistic form, a fair effort to register people. I note that individuals are going to be able to register if they do not meet those requirements but if a local official knows who they are, which means you are going to have a clear opportunity for friendly registration and for violation on that score.

The COMELEC membership, seven members are KBL partisans, they are Marcos appointees, they are known to be loyal to Marcos. It will not make any difference if simply two more people are appointed in a short span of this time. They will not even be up to speed. They will not know the machinery. They will not know how to make any changes, and they will not have the votes to make any changes.

And finally, access to the media, the government controlling the outlets. I understand that Cory Aquino and others, in order to have access to foreign journalists, have been unable to get studio time, they have had to fly to Hong Kong for such interviews. Many journalists are afraid to let their tapes go through the government process, and they fly them out to Hong Kong and elsewhere.

There is another serious question. At issue, as you have said in your report, is the ownership of 350 radio stations, and the opposition questions whether it can get air time.

Now, in view of all those things, 2 months away, you have made a recommendation to us that you still think it is probably advisable to have an international or to have a U.S. observer team go over there, and I am very nervous that we are being set up, that we are going to become patsies to a process which is by definition incapable of being a fair election. And I wonder how you can square each and every one of those areas that you have talked about as being areas of legitimate concern where nothing has happened yet, and this notion that we should play this observer role.

Mr. WEINSTEIN. I think it can be squared, Senator, and I would like my colleagues to speak to this after I have responded.

We raised the hard questions with every person in the Government with whom we met, including President Marcos, Mrs. Marcos, vice presidential candidate Tolentino, and the Commissioners of COMELEC. We went out into the countryside to watch a sample demonstration of the voting process which I will return to later because there are some interesting elements there. Very little, if anything, in your summary did not appear in our standard catalogue of questions. We raised the most important of them with President Marcos directly in order to have a record of this exchange, which we do.

We raised the same questions with the opposition. Virtually in every case, members of the opposition said that it is simply not going to be a fair and credible election. They were extremely nervous about the probability of fraud, of irregularities, and of course, of the extraordinary powers that the President of the Philippine Republic possesses under the constitution and amendment 6.

After these questions were raised and concerns were expressed, we would ask: do you think the election should be postponed, do you think it should be canceled? Members of the opposition would look at us in amazement: Of course not, of course not. There is an unpredictable factor in the politics of the Philippines today that I think is apparent to all sides.

Despite all of the advantages you spoke of, all of the possibilities of fraud, the opposition figures with whom we spoke want to fight electorally. They want the contest, and they want it to be as fair and as free and as credible and as visible internationally as possible.

The observer function is one that is welcomed by those who I think feel they have their backs against the wall in this election.

Senator KERRY. Well, I understand that, and I am very, very sympathetic to the desire that has been expressed by many people over there to have this fight, whether it is unfair or not. I know they want that, and I am not suggesting that we should suggest that it get called off.

But you just used the term as free and fair and credible as possible. Now, that raises a lot of questions. I mean, if it is as free and fair as possible, is it still an acceptable election to us, or even to them? I mean, free and fair as possible may well provide them with a great fight, and Cory Aquino may be able to go home the next day and say well, we did our best, but is it going to meet a standard which we are trying to apply in making a decision about where we go next and what our response ought to be?

Mr. WEINSTEIN. Let me say a word about the standard, and then I am going to ask my colleagues if they would comment on this.

First of all, observers always come to our elections. We have thousands of them here all the time. There is no country that is freer in terms of welcoming election observers than ours. You have talked endlessly, I am sure, to observers from other countries while they were here, gentlemen.

Second, the standards that are cited in our report from start to finish are not an effort in any sense to impose United States standards of free and fair elections on the Philippines. The standards are drawn from Philippine electoral practice, from the electoral code, from the laws governing the election. They are in effect the criteria

that both Government and opposition say they feel can be applied to the Philippines.

In terms of the evaluating standards, virtually all Philippine politicians have indicated, yes, there has been considerable corruption at one point or another in Philippine elections, not of course unknown in our own elections from time to time, but we are talking about a norm.

I would like to hold off there and let my colleagues add to this.

Mr. BARAN. Well, I would like to briefly comment. I had not previously been to the Philippines, and had not previously had much contact with the Philippine culture. I came back from our visit with the belief that the Filipinos are incurable optimists.

There was great excitement about this election everywhere we went. Mr. Bauer and I traveled to Davao City in Mindanao, an area of the country that is heavily infiltrated by the Communist insurgency, an entire portion of the island is still under martial law and subject to a Muslim insurgency. We spoke with an election administrator who pointed out to us 158 precincts out of 5800 where in 1984 ballot boxes disappeared. They were stolen by the insurgents. Yet he and others felt optimistic with respect to the 1984 experience. Notwithstanding the fact that even this committee's staff estimates that 20 of those seats were in some fashion fraudulently denied to the opposition, we witnessed statements such as those of Cardinal Sin that say that the 1984 election was probably the fairest election ever held in the history of the Republic.

It is in that tradition and that context that we have to measure what is fair and what is free. And frankly, we are not going to make that judgment. It is going to be the Philippine people who will make that judgment. Even though there may be elements of unfairness, some denial of freedom of voting, the Philippine people because of their experience and tradition may nonetheless find this upcoming election highly credible and a source for continued optimism.

Senator KERRY. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Kerry.

Senator Dodd.

Senator DODD. Thank you, Mr. Chairman.

I think Senator Kerry raised some excellent points, and I will not bother going back down them again. I think he hit on some things that I made notes myself going through it that I thought were important, and sort of underscored my comment to our previous panel of witnesses about this question.

Again, let me just tell you that I think you did a remarkable job given the timeframe you had. I suppose you would all say if there is any one shortcoming in all of this, it is that you have identified problems and like anything else, it may have been impossible to come up with some consensus solutions on what we do about them.

But I wonder if you have any. Did the opposition party or President Marcos' KBL, did they make any suggestions as to things that we might be able to do to be of assistance?

Now, I do not know what the questions, for instance, with regard to the water marks or the ballot boxes, they do not seem to be able to make enough ballot boxes. It sounds ridiculous, but I mean is

there anything that we could do to assist in this process at all? Would they want us to? Is there a danger if we become too involved in such petty things as building ballot boxes, and if we have to, does that not again speak to the commitment problem?

What sort of comments did you get from both sides as to what we might be able to do in this country to assist in a practical way?

Mr. WEINSTEIN. In connection with this particular election, Senator, the deadline is so short that I do not think there have been many, if any, requests from COMELEC to our Federal Election Commission, the Congress or to AID for technical assistance, or funds to buy ballot boxes and things of that kind.

If you are asking what both the opposition and Government could agree upon in terms of an American response, let's start with that observer role. In our report we concluded that certain kinds of technical observer missions perhaps should continue and that Congress should use the criteria we established to evaluate what in fact it prefers to do in connection with its own members in an observer process.

Those criteria are critical. They are the signals of whether this election is going to be fair by Filipino standards and credible to the majority of the Filipino people.

Senator DODD. Well, given the Chairman's statements today, and other things that have been said over the last several weeks, what is the perception of the opposition people as to the role that the United States is presently playing leading up to the Marcos decision to have an election, and the presence of your Commission there? What sort of feeling did you get?

Mr. WEINSTEIN. I can tell you immediately that, because we came on behalf of the committee, we were received with warmth on all sides, including by the leaders and other members of the opposition. Our presence in that particular week happened to be fortuitous with the political conventions and the rest. That particular week I think we did symbolize a very deep concern on the part of not only the U.S. Congress but the American people for the electoral process. A commitment to the process, it seems to me, is the best favor we can do the Filipino people at this stage.

One of the dilemmas in the campaign on the Government party side is the allegation that substantial segments of the U.S. Government are supporting the opposition. This has become a favorite theme of the Government. We visited with a very distinguished lawyer who helped to draft on behalf of the Marcos government the electoral code. The next day we learned that as a member of the Batasan, he introduced a bill to monitor observer groups, so that I assumed we must be doing something right in the sense that at least our questions were hitting home.

That seems to me to be about as much as you can do without crossing the fine line between observing a process and reporting back and actually in some sense intruding into another country's election.

Senator DODD. Let me just ask one more question here, and let me pick up again with the list that Senator Kerry went down summarizing what you identified in your report.

Is there any reason why every single one of those concerns that you have raised in your report could not be met by the Marcos gov-

ernment, any single one that they could not be complying with and satisfy with adequate enough time satisfy at least the concerns you have raised here in terms of free and fair elections?

Mr. WEINSTEIN. As Chairman of this group, Senator Dodd, before I give you my answer, could I take a poll of my colleagues?

Mr. BRADEN. Basically, they could meet them all.

Senator DODD. I am sorry?

Mr. BRADEN. I said basically they could meet them all. The quick count, the mechanics of that probably not. I just do not think there is any way. I am not sure we could do it in the United States, to be candid with you, or I would have suspicions as to whether we could do it right in a 60-day period of time, but other than that, maybe the watermarked paper, I do not know. But basically everything else, all the other points, if they wanted, they could meet them.

Mr. WEINSTEIN. If the political will was present, they could be done very, very rapidly.

Senator DODD. With time. Adequate time is the element?

Mr. WEINSTEIN. Certainly, with the exception, I think we all agree of this computerized satellite process which really involves setting down a computer infrastructure in the Filipino electoral process where none previously existed. This seems to be a fine idea generally, and maybe is a point where AID or the Congress might have some thoughts for subsequent elections. There is, after all, a local and regional election scheduled for May.

Senator DODD. Well, that is—we are talking there about the tabulation of a result.

Mr. WEINSTEIN. Right.

Senator DODD. The question of ballots and marks, those are the more fundamental questions. If you handle those right and monitor them correctly, then your count should come out correctly, I think, whether you count it in 1 day or 5 days or 10 days, really.

Mr. BRADEN. Senator, if I could maybe disagree with that, to be candid with you, I think that our belief is, and it has been indicated to us by the opposition that it is their opinion that most of the votes are stolen—we might say wholesale rather than retail, and that is they are stolen in the tabulation and computation process rather than flying voters and having people vote two or three times.

If there could be a program for counting the votes quickly, that really does help significantly ensure against fraud. What seems to be the case in the past is that part of the results will be gotten in early, and then the end results will be manipulated by people filling in different sheets and just doing different totals.

Senator DODD. But aside from the quick count, as I looked out, you have been nodding your heads, every single one of you would agree that every single one of these concerns could be, except for that one possibly, could be satisfied, and satisfied in a timely fashion if they have the commitment to do so?

Mr. WEINSTEIN. Yes, sir, that is correct.

Senator DODD. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Dodd.

Senator Pell.

Senator PELL. Thank you, Mr. Chairman.

One question that concerns me is do you or do you not believe an observer team should be sent out from the Congress at the time of the election, because you leave that a little up in the air in your report?

Mr. WEINSTEIN. Senator Pell, our general conclusion was that Congress should make no decision on sending an observer team until such time as the essential ground rules for a potentially fair, free and credible election in the Philippines are in place. There is a list of these issues in the executive summary of our report, all of which, with the exception of the quick count computer process, could be resolved very, very quickly if there were a will to do so.

Until these issues are resolved, Congress would be, with all due respect, giving away one of its most powerful cards in this process by agreeing in advance to the sending of an observer team.

Senator PELL. Thank you.

Well, basically, I guess, there are three ways the election could be stolen, one, beforehand by the registration process; second, in the actual balloting; third, in the computation afterward, and as Mr. Braden said, it is always cheaper if you do something wholesale than retail. And going to the wholesale tabulation, I do not see how it is possible to put into place this computer, the software and any other equipment in the 6, 7, 8 weeks we have remaining.

Do you really believe that this is possible? I would like to talk this out with you.

Mr. WEINSTEIN. I am not a specialist in this computer election hardware, but I personally do not. I support, in short, the opinion of those within COMELEC who do not.

I would like to point out, however, the political context in which this new operation, super quick count, as COMELEC calls it, emerged. Last year during the 1984 election for the Batasan, NAMFREL, the citizens' arm, conducted a relatively uncomputerized operation they called Operation Quick Count. It was simply an effort to informally count the ballots as quickly as possible.

Senator PELL. By telephoning in the information, doing it the old fashioned way?

Mr. WEINSTEIN. Traditional ways, old fashioned ways, hands on ways.

It was so successful at least in perceptional terms, both in the Philippines and abroad, that when NAMFREL announced its intention to engage in a more highly sophisticated computer version of the quick count, COMELEC had a problem. If NAMFREL conducted an Operation Quick Count, what could COMELEC do? COMELEC in fact announced an Operation Super Quick Count, complete with charts. We were invited into a press conference which we thought had been going to be a private briefing. This happened, I must add, on more than one occasion, and not simply involving the government. What we determined in further questioning of this process was that it existed largely on paper at this point. That was the disapponting element. We thought we were watching something already in place, which clearly was not the case.

Mark, do you want to add anything?

Mr. BRADEN. I used to be director of the elections division in the State of Ohio. It would be difficult to do in that time period in Ohio with the existing infrastructure that is present in a State like that.

In theory it is an excellent program and I was quite impressed with the presentation. The reality is it does not exist yet, and it seems very, very unlikely they can get it in place.

Senator PELL. So in fact, then, we will probably be faced with a decision of whether most of the other items in your checklist have been agreed to, but it is unlikely the computer setup will be in place. So our decision will have to be made with that in mind, and the question will be whether it is more to our advantage to do it or not to do it—not to our advantage, but to the advantage of the Philippine people.

Mr. WEINSTEIN. That is correct.

Senator PELL. In connection with one of those mechanical devices, you talk about the ballot boxes in your report and say the only difference between the new ones and the old ones is that the new ones have transparent sides, and the old ones do not.

What difference does it make if the side is transparent or not? You cannot read the ballots through the glass.

Ms. SHOCAS. Senator, the purpose of the transparent-sided ballot box is to prevent fraudulent voting activity, principally the stuffing of the ballot box prior to the election. In the 1984 election and in previous elections, many ballot boxes disappeared and turned up completely filled with ballots. Some voters went into polling precincts and could not find the room to put their ballot into the ballot box because they had been stuffed. The purpose of the transparent side is to insure that in the beginning of the process one would be able to determine whether the ballot boxes were in fact empty.

Senator PELL. So that if you have a friend that you think takes your liquor, you put a line on the bottle and then it should not get below that.

Is that the idea? [Laughter.]

Mr. WEINSTEIN. Something like that.

Ms. SHOCAS. Some concerns were raised as to whether the integrity and secrecy of the ballot would be jeopardized by the transparent-sided box.

There is a possibility that one may be able to see through the ballot itself even though it is folded. This raises come concern that voters may be intimidated when they drop their ballots into the box in that someone would be able to see how they voted. But all groups, including COMELEC, NAMFREL and the opposition groups agree that the transparent-sided ballot box is preferable and its advantages far outweigh any disadvantages.

Senator PELL. I have one other mechanical question.

I notice in the El Salvador and Guatemalan elections that they put the ink on your finger which seemed to absorb it better. I notice here they put it on your nail.

What is the reason for the difference?

Mr. BARAN. It gets under the cuticles and apparently it produces a more lasting and more indelible stain.

Senator PELL. Thank you.

Thank you, Mr. Chairman. I have no further questions.

The CHAIRMAN. Thank you, Senator Pell.

Let me sort of converse with you for a moment. Senator Pell and I both had a recent experience in the Guatemalan election, he at

the time of the final, and I was there for the November 3 situation, and at least in my judgment, the Guatemalan election was the best election that I have seen in terms of technique, in large part because a lot of time and thought had gone into it. Maybe some of the people in your center were involved. Certainly there were many people in our Government who contributed a lot of expertise.

And in fact, they had the ink on the finger as Senator Pell has described, the transparent ballot boxes which were suspended from identical tables in over 5,000 precincts so that you could see they were empty when they started, the ballots had to be folded over four ways so you could not see what was there, and the identification of each of the people, the computerized lists of those who were registered, even very good procedures with Indians who came who were illiterate, over half of the voters in many precincts out in the country, in fact, just left a thumb print as opposed to a signature, and we watched carefully the interviewing of each dispute and the teams of three were obviously well trained, with a fourth as a messenger, almost uniformly in over 100 precincts that I saw in different situations.

Finally, the count in which the ballots were displayed to all parties sitting around the table, the chairman waived the ballot, you could see the mark, determine what it was, and the mark was made, a laborious procedure for 500 ballots, but one in which every single person agreed the count was absolute, and then the count went directly to the Camino Real Hotel where within 24 hours, even in remote locations, they had the total count for the whole country, and there was no dispute that I know of that a single vote was miscounted, given this meticulous procedure. So it is possible.

Now, this, mind you, in a country which many people would have contended had not had a fair election ever, you know, not one that came close, not even one that was in the ballpark, and in a country in which there still is great suspicion as to the role of the military. We have been discussing that around our table here.

Now, our Secretary of State asked various people, I was one of them, to go to Guatemala to stand in the presidential palace and make statements to the national media about the importance of this election, carrying it off, how important it was to our relationship, how important we thought it was to Guatemalans, to tell General Mejilla and others personally that that was so.

Now, I mention that sort of as a benchmark, mind you, a country of only 8 million people, not over 50 million, and much more compact as opposed to—and probably not with as great an insurgency problem, although a considerable one, in which there was some doubt, some areas, as to how the balloting might continue, but there are many parallels.

And this is why some of us, having these recent experiences, would just simply say that we may have been naive about these things before, maybe still are in a way, but we have all been going to school on elections. And I think that probably Philippine officials since that, I suppose we ought to just state they ought to know that, so that there are things that can be done.

I agree with Senator Dodd and Senator Kerry, in the event that you want to have transparent ballot boxes, even if you need 55,000, you can get those, you can get the paper, you can get the registra-

tion, you can do those things if there is the will. So Senator Dodd's question, I think, is well taken, and that is we are not convinced there really is a will here. I suppose my own suspicion that I blurted out about three times already is that to a certain extent the President is humoring us. He feels a little bit of pressure here and there, a little feint and a jab and so forth, but in terms of commitment to democracy, to the elements of this election, that we have not seen, nor have you, although you are giving us criteria as to how we might watch for it or see almost like a united fund, the thermometer is rising, we are getting there, some percentage mark.

As Senator Kerry has pointed out quite properly, ultimately the Philippine people have to decide what kind of a government they want. We pray that they will want democracy, for their sake and for ours. We would pray their military establishment will be successful in defeating an insurgency which if it came could make a gruesome experience we think for that country, and clearly as strategic impossibility for ourselves. We sense from what you are saying that the Philippine people really do want this.

I think what we have to zero in on, and it is an off season, we are about to recess, and many of us are going to be gone, and so the attention focus will be more difficult, but even at this late date, what technical procedures through AID or through anybody else in our Government, we might assist with in the event it is requested, not insisting upon it, but in the event it is requested because we did help a lot in Guatemala, and they could not have made it, I think, at that point without us.

And second, I suppose with regard to the observer group, clearly this is a difficult observation process, and you have already outlined in terms of your own experience all of that. I think we have to think very carefully about that. I agree with your conclusion. There are a lot of observer groups that I have been asked to serve on that I have just said no. I do not think this is going to be a very good election, and I really would not want to dignify it. I think that is the kind of judgment we are going to have to make, and it is a tough one because we are all interested in this as you can tell, and you are, too.

We are curious and we would like to contribute. Whether we can or not is not really clear at this point.

So let me just ask you for this guidance. How can we tell whether the criteria you have listed today, Senator Kerry has reiterated, are being met? Will the press tell us over there? Do we have—will our Ambassador tell us? You know, if we wanted to have a benchmark each week of how we are doing, how can we tell?

Mr. WEINSTEIN. I would think the U.S. Embassy would be the first stopping place, Senator. We found the quality of analysis and reporting extremely high, and I speak on behalf of my colleagues when we say our own trip was facilitated enormously by the cooperation of the Embassy staff. They will be familiar with this report. I would think they could provide you with very precise benchmarks. This does not mean to say that one should not read the press. We asked a number of people about the specific number of villages the Philippine Government considered to be under NPA control or influence as a question not of military tactics, but of the election. How do you conduct an election in a village in which you

are not exactly certain who is in charge or whether a local official is a double or even a triple agent in terms of his or her loyalties?

It was only in the New York Times interview with President Marcos on Monday that we discovered, in the President's words, that 4,000 villages were controlled by the NPA at this point, and 5,000 were influenced by them out of a total of 42,000. This is at least a figure that, whatever its reliability, is a starting point for a discussion of this concern.

The press obviously is keenly interested in the election. One is getting back a wide variety of stories, and that should enter into the process, in addition to the reports of any groups which go over on their own and come back with the kind of information you need.

If I can be permitted one or two comments of a general nature before I ask my colleagues, with your permission, to do the same, first let me say that your and Senator Pell's trip to Guatemala was duly noted. We heard about that from various people we spoke to in the Philippines. They are not unaware in the Government of what this committee does. They are keenly concerned about that.

As a matter of fact, you asked if the Center had been there. A member of our board of directors, the president of Boston University, John Silber, was along with your trip.

However, I detected on all sides a certain amount of sensitivity in the Philippines to being compared to Latin America. This is a country which feels that it has had a long tradition of struggling for democratic liberties, first against the Spaniards, then against us, then when they did achieve their independence, often against their own Presidents. They have turned out incumbent Presidents twice since the second World War, although in the political culture of the Philippines there rarely are concession statements. We were told that in the memory of a number of the individuals we spoke to, only once or twice has a losing politician ever conceded in the Philippines.

The CHAIRMAN. Mr. Weinstein, if I might interrupt just a moment, we heard yesterday President-elect Cerezo tell us that the concession statement by his opponent was the first time that had ever occurred in Guatemala, so a first there, too.

Mr. WEINSTEIN. I think it would perhaps not be remiss to persuade President Cerezo to travel to the Philippines to examine the scene there.

But there are 7,000 islands, 54 million people, a very complex electoral situation and a highly sophisticated electoral cast of characters with unpredictable opposition characteristics in this particular election. From what the opposition told us, if all that they had to contend with were the powers of incumbency, which are considerable in the Philippines, they feel they can handle that.

A final story, and I will turn this over to my colleagues.

If you do not mind my leaving the microphone for a moment, I will go over to the easel.

This (indicating) is a chart that was used by the COMELEC in a precinct we visited in Tagaytay, about 50 miles outside of Manila, where we studied registration, voting, and counting procedures. The people who served as sample voters had been selected by the barangay officials of that village. The barangay captains, at least in that part of the country, apparently are very strongly associated

with the Government. You will notice that the five names on the list are fictitious. When the ballots cast by the sample voters were counted, the registrar pulled them out, turned them over, looked and announced: "Marcos-Tolentino." The KBL ticket had been selected 4 hours earlier. "Marcos-Tolentino, Marcos-Tolentino, Marcos-Tolentino."

Now, there had been no coercion particularly, but you are dealing with residual political sympathies on both sides, the pressure of local officials and the like.

To get back to your original question about criteria, I assume one understands there is a keen debate within different ranks of the army as to how to respond to specific requests for being anything but neutral in the election process.

The great old generals and command officers of the Philippines, of the Magsaysay period, the legendary figures of World War II and the postwar period, some of whom we met, the grandfathers of this young generation of officers are increasingly those whose counsel is being sought out in this process. I speak carefully, but I mean to make this point. Do not give up on the army. The sons are seeking out the grandfathers if the fathers in fact prove to be fallible. This is such a situation poised between hope and despair that if we have any single message to you, it is to urge very hard, tough pressures on the specific points we have raised, and some patience while we see what happens.

The CHAIRMAN. Dr. Weinstein, let me ask this question. In the Guatemalan situation where the army had a notorious reputation, the law for this election, surprisingly enough, ruled that people in the military service could not vote at all. Not only were they in the barracks, they were not visible because they were not voters. They were absent.

Now, this comes, I suppose, because of the tradition of the country. It is not one that we would want to subscribe to in our own country, we would want members of the armed services to be able to vote, but it was an interesting situation.

Did that ever arise in the proceedings of election law in the Philippines that you would divorce the military altogether from the situation?

Mr. WEINSTEIN. I would prefer to let some of my colleagues respond to your question. However, I want to make one point here. We met with a magnificent individual who is part of the NAMFREL coalition, a retired general of the Army who, along with his colleagues, all retired, are writing letters to 42,000 officers in the Philippine Army urging their respect and their utter commitment to the electoral process and to the Constitution of the Philippines. They are beginning a process of trying to oversee voting in military bases to assure the same integrity of the ballot there as would exist elsewhere.

Bob, you wanted to say something.

Mr. BAUER. Mr. Chairman, first, it is fair to say that the Philippine's Omnibus Election Code contains a broad range of provisions designed to cleanse the electoral process of undue military influence. Unfortunately, counterpoised against this is the very broad power that the COMELEC has with the consent and at the instance of the President to deploy troops for alleged security rea-

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sons. So the question of whether those deployments in any one instance, especially where the President is running for reelection will be for the intended or the declared purpose is, of course, one of the most problematic areas in the law.

The second point that I had wanted to make in strong reinforcement of Dr. Weinstein's response to your question about how we prepare, this is a critical period. Frankly, based on the sort of signals which change daily in the Philippines, it really does not wait out our Christmas season.

Let me just give a very graphic example, and I will stop at that. The question of the accreditation of NAMFREL was a question answered variously in Manila to us by the government differently as each day passed. And ultimately what transpired was a resolution executed and in fact brought to our attention on the day that we left which had in itself some signals but no ultimate resolution of the question. As a result, NAMFREL, having been accredited in 1984, remains unaccredited on a national basis today, nor is it clear when it will be accredited or how it will be accredited. The question of when accreditation is meaningful in the time continuum that we are discussing is a very serious question.

So if there is going to be a meaningful monitoring of these steps, it is going to have to be literally on a daily basis because at some point any further procrastination in the making of these decisions will be highly critical. There is simply no question on this move.

Finally, closing out, I am sure, my comments here, I just wanted to mention that Senator Pressler earlier raised this question of whether we bring cross-cultural biases to bear in an improper manner in judging foreign elections. It was then mentioned that within the Philippines, candidates generally refuse to concede defeat. We assured some of the Filipino politicians that we met that we had the converse problem in the United States, that of candidates who concede before the voters have completed the balloting process.

So we were mindful throughout the electoral process of the cultural diversities that affect political processes.

The CHAIRMAN. Senator Pell?

Senator PELL. Excuse me. Could I follow up on that question?

Does the military have the right to vote? Do they have the ballot?

Mr. WEINSTEIN. Yes, they do, absolutely.

The CHAIRMAN. Senator Kerry?

Senator KERRY. Mr. Chairman, I would just ask a couple quick questions. I know we have been much longer than we anticipated.

If all of the things that I listed and which the Chair has talked about were accepted, they were all put in place, NAMFREL is accredited, COMELEC appointments are made, full fare—you get access to TV, so on, is it not still accurate to say that you could have a rigged election?

Mr. WEINSTEIN. Well, again, with the same anxieties about answering hypothetical questions that Secretary Armitage expressed——

Senator KERRY. Well, I guess I am really talking about the quick count situation.

Mr. WEINSTEIN. The process would have to be monitored very carefully on a day-to-day basis, what is the Army doing at any given moment. If you were talking specifically about the issue of counting the votes, in Philippine terms, that is a very serious problem and not one that is likely to be resolved by Operation Super Quick Count. There may very well be the possibility with U.S. assistance, if it is requested, of putting in some type of computerized ballot counting system for the May elections, for example, but not by February.

Senator KERRY. Well, what I am getting at is, and a concern that I have, and obviously I am not hoping this happens or anything, I pray it does not happen, but I want us to be very clear as we make our judgments, that the Chair has talked about, that we are aware of the different possibilities. The issue was brought up earlier about the possibility of wholesale versus retail fraud, and I certainly agree with that as being the most effective and probably the most realistic. And what I would like to know is in your judgment, if there is evidence which hopefully we will be able to pinpoint, that there is that kind of wholesale changing, that we think the poll results showed one thing and then there is a transition and Marcos is declared winner, and all the other things are done leading up to it, is that result, if you had an election which was changed merely by the wholesale changing of votes, that I take it everybody would agree is not as fair as possible.

Mr. WEINSTEIN. Of course.

Senator KERRY. OK. I just wanted to make certain because it seems to me we may well get down to that kind of last——

Mr. WEINSTEIN. It is even worse, Senator, in one regard, because we are confronted with an electoral code which on its face is perhaps as balanced and fair, if executed, as State electoral codes in this country.

There is a conflict between form and substance. If in fact all the forms and all the amenities were observed and then substantively the election were stolen, it seems to me that that would be an even greater betrayal of the Philippine people.

Senator KERRY. Now, without the quick count in place, do you think we are going to have the ability to be able to make that determination adequately?

Mr. WEINSTEIN. I think the only hope of making that determination is the prompt and wholehearted national accreditation of NAMFREL as the main citizen arm of COMELEC, without in any sense preventing COMELEC from accrediting other citizens groups. They have mentioned the Philippine Integrated Bar and other groups that they wish to accredit regionally or in specific localities, but the game is a NAMFREL game, and NAMFREL showed that last year. By COMELEC's own count, NAMFREL was deeply active in 22 percent of the precincts with limited time to prepare in the rest. They have had a year's worth of experience, they have been preparing.

Frankly, most of the people who are highly partisan within the organization would probably be working for one or another of the candidates this year, so that the organization is left with a reservoir of its constituent organizations of deeply patriotic, civic Filipi-

nos who deserve the chance to monitor and help coordinate that type of a count.

Senator KERRY. Thank you very much.

Mr. Chairman, I would just like to conclude by making a comment, if I may, that—and I would like to pick up on what Mr. Bauer said and on the final answer, Mr. Weinstein, which is that the clock is really running here, and I think the comment about the Christmas period here being the outlying area is very, very relevant.

What I fear, and I think you share this, and others share it, is that if—that there is a procrastination process going on, sort of a feint and a jab, as you said, and a duck and a bob and a weave, and he is going to get away with what he can. If he can delay accrediting NAMFREL in order to prevent NAMFREL from setting up the kind of structure which can allow us to make that kind of judgment, then it is just a game, and I guess we have to make up our minds as to when it is that we expect that that accreditation is made, or you begin to get beyond the pale of being able to have that final guarantee that this has a possibility of fairness, and then the rest of it will be a facade, and we are all left looking at that facade and wishing it were otherwise.

And again, a number of Senators have said this, you said it, Mr. Chairman, I know that President Marcos on occasion does listen to these hearings and what is happening, and I would want to just reiterate what others have said. I think that President Marcos holds such a unique moment of history in his hands, and the comment was made earlier about the eternal optimism of the people of the Philippines, that I marvel at it. I mean, I think it is real. And if ever there was a country—and I have traveled to a number of countries in Southeast Asia—that there was a hope for democracy and there was a place where it had roots, and there was an ability of the people to pick up on it, this is it. And but for the will of one individual and some people around that individual, it seems that that may be thwarted, and a far worse situation with far more grave implications for human life and for world security is going to unfold.

And I guess all of us have these deep hopes that this one person can see something beyond himself and see something for the future of his country, and will do so.

And finally, Mr. Chairman, I would just like to congratulate you on an outstanding first year as chairman.

Thank you.

The CHAIRMAN. Thank you very much, Senator Kerry.

I just have one technical question.

Getting back once again to the Guatemalan count, I watched the count in 5 precincts. Now, this is five out of 5,000-plus, but that evening, just simply totalling up the percentages of the five that I had watched, I noted when the final results came in even 3 weeks later that the percentages I had on those five were off by no more than 1 percent for each of the eight candidates.

Now, this may mean that Guatemala is much more homogeneous than many other countries, and I would just as a matter of technique in this situation, was it your experience as you listened to people discussing politics in the Philippines that one could antici-

pate markedly different results percentagewise in different parts of the country, because that would influence the count and whether you could have the sophicated Quick Count or whether you had even an observer team that phoned in a few results.

My guess is you get a reasonably good flavor, plus or minus, of what is happening, if you have people sufficiently located, even with a variety of backgrounds.

Does anyone have any comment at all as we think ahead as to the sort of an observer validation we might have to get a sense of how things are going?

Mr. WEINSTEIN. Mr. Chairman, the Philippines is a widely divergent country politically. There are areas and provinces where even with the fairest of counts, candidates would be more likely because they were born and raised there, or because they were of the same ethnic stock and spoke the same language, to have a decided advantage. The task of any observer delegation in the Philippines would be to avoid even the concept that one is dealing with a homogeneous situation.

Each politician with whom we spoke, the leaders of the opposition, the leaders of the government, gave us at one point or another their own lists of provinces and areas that they hoped observers would go into, presumably because of the way in which their own party was treated there. There are some commonly conceded disputatious areas that could easily form the trouble zones in which any international observer group, in collaboration with NAMFREL and COMELEC, concentrated its energies.

Ms. SHOCAS. I would like to underscore what Professor Weinstein said. Every group with which we met both on the government side and the opposition side, urged us to bring our observers out of Manila. There should be some presence in Manila, but that is not the area in which there will be significant problems. Observers should arrive in the country in enough time to observe the early stages of the process and stay a sufficient time after the election, until the tally is complete and the winner declared.

The CHAIRMAN. Let me just mention, Senator Pell and I will need to be in touch throughout the recess time. The committee will be on recess, as will other Members of the Congress, but perhaps not recessed altogether. We intend to stay in business really throughout the period of December and January, and we will try to think through ways of monitoring these changes as they come along, and we will appreciate, if we may, additional consultation with each of you as to your own sophisticated observation of this process.

We have talked today about how we would know and our embassy clearly is a most important factor, perhaps, with the international press, our own national press and others. But we deeply appreciate your devotion of this time and your own professional lives to this visit and a very important report, and your willingness to discuss this fully and frankly with us in this public session this morning because I think this has been very beneficial to our understanding, and I think to all Americans who are deeply interested in the Philippines.

Senator Pell.

Senator PELL. I join with our chairman very much in congratulating you on what you have done, and I thank you on behalf of not only the Philippine people but for the United States, too.

Thank you.

The CHAIRMAN. I would just conclude by saying that I think all of the comments of Senators today underscore the friendship that we feel for the people of the Philippines. This is a devotion that is heartfelt I think both ways. You have certainly indicated in your comments the strength of that emotion as well as the intellectual content, and that I think came through loud and clear.

Do you have any further comments that you wish to make before we conclude this?

Mr. WEINSTEIN. Mr. Chairman, on behalf of all of us we would just like to thank the committee and particularly yourself and Senator Pell for all of your support and help you have been in this mission.

The CHAIRMAN. Thank you very much.

Mr. WEINSTEIN. Thank you, Mr. Chairman.

The CHAIRMAN. The meeting is adjourned.

[Whereupon, at 12:53 p.m., the committee adjourned, subject to call of the Chair.]

APPENDIX

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THE PRESIDENTIAL ELECTION PROCESS IN THE PHILIPPINES

A REPORT

TO THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

BY THE

CENTER FOR DEMOCRACY
BOSTON UNIVERSITY
BOSTON, MASSACHUSETTS
AND
WASHINGTON, DC

JANUARY 1986

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LETTER OF TRANSMITTAL

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, January 10, 1986.

MEMBERS,
Senate Foreign Relations Committee,
U.S. Senate, Washington, DC.

DEAR MEMBERS: On behalf of the Committee on Foreign Relations, I am submitting to the Senate the report of The Center for Democracy on the Presidential election process in the Philippines. This report was the subject of the Committee hearing on December 18, 1985, which examined the election laws, campaign procedures and election mechanisms being used in the Philippines for the February 7, 1986, Presidential election. The Committee considers this report useful to the Senate in arriving at a decision concerning the sending of an observer delegation to that election.

The Committee wishes to express its deep appreciation to Dr. Allen Weinstein, The Center for Democracy's president, and the five other members of the bipartisan team which visited the Philippines, December 9–14, 1985, in creating this report.

The views expressed in this report do not necessarily reflect the views of all Members of the Committee on Foreign Relations.

RICHARD G. LUGAR,
Chairman.

Report to the

COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

ON

THE PRESIDENTIAL ELECTION PROCESS IN THE PHILIPPINES

Submitted by

THE CENTER FOR DEMOCRACY
BOSTON UNIVERSITY
BOSTON, MASSACHUSETTS
AND
WASHINGTON, DC

Prepared by

Allen Weinstein, The Center for Democracy
Jan W. Baran, Wiley & Rein
Robert F. Bauer, Perkins Coie
E. Mark Braden, Republican National Committee
Elaine K. Shocas, Democratic National Committee
Caleb C. McCarry, The Center for Democracy

December 18, 1985

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I. INTRODUCTION

A. Purpose of the Study: A Summary

The Center for Democracy's visit to the Philippines with a six member delegation from December 7–14 of this year took place at the direct request of the U.S. Senate Committee on Foreign Relations. On November 21, 1985, Allen Weinstein, the Center's President, received a letter (Exhibit A) signed by Senators Richard G. Lugar and Claiborne Pell, respectively, Chairman and Ranking Minority Member of the Committee, asking the Center "to undertake a visit to the Philippines on behalf of the Committee . . . in early December."

The mission had the following stated objectives:

1. To demonstrate the concern of the Committee that the Presidential election be fair, free and an accurate reflection of the wishes of the Philippine electorate, and that preparations now in progress are supportive of such an election;
2. To study the electoral code recently passed by the Philippine National Assembly;
3. To observe and analyze the preparations being made under this electoral code (and other pertinent laws and regulations) for the holding of an election in February 1986 or later;
4. To discuss with relevant participants the progress of election preparations, including problems; and
5. To report back to the Committee on Foreign Relations as soon as possible.

The Center and the Committee had agreed that the group which undertook this study should be bipartisan and should contain experts on U.S. electoral laws and processes affiliated with both the Democratic and Republican Parties. It was agreed further that the project should be conducted without cost to the Committee, all expenses to be borne by the Center.

The Committee's request to the Center followed by three days Senate passage (on November 14) of a Concurrent Resolution of the U.S. Congress, passed the previous day by the House of Representatives, that responded to the call for an early 1986 presidential election in the Philippines by that country's President, Ferdinand E. Marcos. The Concurrent Resolution (H. Con. Res. 232, Exhibit B) expressed "the sense of the Congress with respect to the restoration of democracy in the Philippines" and, after noting President Marcos' pledge to hold a free and fair presidential election (now scheduled for February 7, 1986), states that the Congress "believes that in order to provide institutional guarantees for an honest election which will be deemed credible by the Filipino people, it is important that the following steps be taken":

(A) Determination of the timing and modalities of the election in accordance with the Constitution of the Philippines.

(B) Appointment of an impartial Commission on Elections (COMELEC) staffed by politically independent commissioners.

(C) Timely accreditation of a freely functioning, politically independent, citizens' election monitoring organization which has access to all polling places in the country and to all phases of the electoral process, and which is able to report all of its findings fully and in a timely fashion.

(D) Adequate access to radio, television, and the print media for members of the democratic opposition throughout the entire campaign period.

(E) Neutral conduct by the Philippine military establishment.

The report which follows reviews the electoral situation in the Philippines within the context of the mandate from Senators Lugar and Pell. The delegation took into account throughout its work the criteria cited in the Concurrent Resolution which are essential for "an honest election which will be deemed credible by the Filipino people."

B. Background: The Pursuit of Bipartisanship

The process which led to the Lugar-Pell mid-November request began last July in a series of meetings (Exhibit C) with interested Senate staff members from both parties and State Department officials, later joined by House staff members. The meetings centered around developing practical, non-intrusive and bipartisan approaches to strengthening democratic institutions and processes in the Philippines through exchange programs which would involve both government (KBL) and opposition political leaders.

The original focus of these discussions concerned efforts directed toward the local and regional elections in that country scheduled for May 1986. Once President Marcos announced his plans for a "snap" presidential election next February, attention shifted toward acquiring information vital to Congress in determining whether or not to accept the President's invitation to send formal observers and, if so, in what manner.

By mid-fall, in addition to Chairman Lugar and Senator Pell, a number of other members of Congress from both parties and in both houses of Congress, joined the Center's ongoing discussions of the situation. Senator Frank H. Murkowski, Chairman of the East Asian and Pacific Affairs Subcommittee of the Committee on Foreign Relations, and Senator Alan Cranston, Ranking Minority Member of the Subcommittee, both strongly supported this initiative. The following Senators have participated in the process of developing the Center's bipartisan delegation: Christopher Dodd, Daniel J. Evans, Edward M. Kennedy, John F. Kerry, Paul Laxalt, John Melcher, Larry Pressler, and Paul Simon.

House members who offered essential advice during this process include Dante B. Fascell, Chairman of the House Foreign Affairs Committee; Stephen J. Solarz, Chairman of that Committee's Asian and Pacific Affairs Subcommittee; Doug Bereuter, and Jack Kemp. Both the Republican and Democratic National Committees, through their Chairmen, respectively Frank J. Fahrenkopf Jr. and Paul G. Kirk, have been mainstays of the initiative.

At the State Department, strong support for the Center's efforts has come from Assistant Secretary for Asian Affairs Paul Wolfowitz, Deputy Assistant Secretary of State, John C. Monjo, U.S. Ambassador to the Philippines Stephen Bosworth, Director of the Philippines Desk John Maisto, and Director of the USIA Asian Affairs Bureau, Robert Nevitt. Special Assistant to the President, Walter J. Raymond, has participated in the discussions on behalf of the National Security Council.

C. The Delegation

The delegation, in addition to Professor Weinstein, consists of the following people:

Jan W. Baran, Partner, Law Firm of Wiley and Rein, Chairman of the American Bar Association's Special Committee on Election Law and Voter Participation Advisory Commission, General Counsel to the National Republican Congressional Committee;

Robert F. Bauer, Partner, Law Firm of Perkins Coie, General Counsel to the Democratic Senatorial Campaign Committee and Counsel to the Democratic Congressional Committee;

E. Mark Braden, Chief Counsel, Republican National Committee;

Elaine K. Shocas, Counsel to the Treasurer, Democratic National Committee, and Special Counsel to the American Federation of Teachers; and

Caleb C. McCarry, Director of International Programs, The Center for Democracy.

Prior to departing, the delegation met several times with a bipartisan cross-section of congressional staffs, State Department officials, and others for briefings on the situation in the Philippines and the state of U.S.-Philippine relations. Members of the delegation met with Minister Leonides Caday of the Philippine Embassy in Washington to brief the government of the Philippines on the purpose of the research mission and to request appointments with leading government officials—including President Marcos—to discuss election preparations. Minister Caday assured Professor Weinstein of the government's cooperation during the visit.

In addition to these joint meetings, the delegation also reviewed State Department briefing materials, congressional hearings and staff reports (particularly the October 1984 Senate Foreign Relations Committee staff report which analyzed the May 1984 parliamentary elections), major country studies, recent press reports, and the new Philippines Omnibus Election Code prepared and approved by the Batasang Pambansa.

D. Meetings in the Philippines: A Summary

The delegation left Washington, D.C. for Manila on Saturday, December 7, arriving there Sunday evening. Over the next six days, the delegation met with over 75 Filipino political and public figures to review the state of electoral preparations. In addition, we received valuable assistance and briefings from Ambassador Stephen Bosworth and members of the U.S. Embassy staff throughout our stay. The cooperation of the U.S. Embassy, moreover, in facilitating

logistics for the entire visit eased enormously the group's administrative burden.

A complete list of those with whom the delegation met has been appended to this report as Exhibit D. Our schedule included meetings with: President Ferdinand E. Marcos, KBL Vice-Presidential candidate Arturo Tolentino, "UNIDO" (Opposition) Presidential candidate Corazon Aquino, UNIDO Vice-Presidential candidate Salvador Laurel, Mrs. Imelda Marcos, Jaime Cardinal Sin, Minister of Defense Juan Ponce Enrile, Chairman Victorino Savellano and members of the Commission on Elections (COMELEC) and their key staff members, Chairman Jose Concepcion, Jr. and other leading officials of the National Citizens Movement for Free Elections (NAMFREL), and with a cross-section of government and opposition leaders. In addition, we reviewed our understanding of the laws related to the current Philippine electoral process with various constitutional and legal specialists in that country as well as with former COMELEC commissioners from both government and opposition groups.

The delegation neither asserted nor sought special expertise in the military and economic context of the forthcoming election. We have tried, however, to familiarize ourselves thoroughly with the essential constitutional, legal, and political factors shaping the February 1986 presidential contest. Specifically, we attempted to convey to all those with whom we met the explicitly non-intrusive bipartisan character of our inquiry, supporting no side and favoring no perspective other than an attempt to compile—to the best of our collective ability—a presentation of the facts needed by the Foreign Relations Committee in rendering intelligent judgments upon the question of whether the forthcoming Marcos-Aquino election campaign would be free, fair, and credible to the Filipino people.

II. EXECUTIVE SUMMARY

If the Supreme Court of the Philippines declares the election constitutional, that country will vote on February 7, 1986 for a President and Vice President.

Virtually all political leaders in the Philippines recognize the present moment as one of unprecedented crisis in the life of that nation, borne out dramatically by President Marcos' decision to seek a special election well before the conclusion of his regular term of office in 1987. The February 7, 1986 election, therefore, holds both enormous risks and presents significant opportunities for the future of democratic institutions in the Philippines.

If the election is widely believed by Filipinos to have been conducted unfairly or fraudulently, the candidates who take office as President and Vice President will lack the legitimacy required for effective governance. On the other hand, if the election is widely recognized to have been conducted in a free, fair and honest manner credible to the large majority of the electorate, it can accelerate dramatically the democratic process in that country and contribute to national cohesion and effective government in the face of major political, economic, social and national security problems.

The government of President Ferdinand E. Marcos has offered assurances that this election will be conducted fairly and without coercion, nevertheless, significant concerns were expressed by many Filipino political, religious, labor, business and media leaders in light of the following:

Marcos' twenty-year tenure in office, marked by a decade-long period of martial law and continuation of the President's capacity to use broad decree powers.

The periodic imprisonment of opponents of the Marcos Administration since martial law was declared in 1972 under a legal regime permitting "preventive detention" without trial and the suspension of writs of habeas corpus in various regions of the country.

The murder of Benigno Aquino, Jr., and subsequent court proceedings related to that crime, which galvanized intense opposition sentiment in the Philippines.

Because the government of the Philippines and COMELEC have not yet concluded their final determinations on essential election procedures, our judgment on the ultimate fairness and credibility of the election must remain tentative at this point. The procedures in question will determine whether the campaign, voting, and tabulation of ballots will be persuasively honest—and, as important, will appear to be so—to the bulk of the Filipino people.

We have no hesitation, however, in suggesting major criteria by which dispassionate observers of the current electoral process in the Philippines can evaluate its fairness. These criteria substantially rely on the legal framework and procedures used in connection with the May 1984 Batasan elections, generally viewed by Filipinos to be among the country's fairest.

The following requirements and conditions are critical, in our opinion, to determine the fairness of the February 1986 election. The government's position on these matters was unresolved at the time of this Report:

The national accreditation by COMELEC of the National Citizens Movement for Free Elections (NAMFREL), widely credited for effectively monitoring the 1984 legislative election nationally, as COMELEC's principal "citizens' arm" for the presidential contest, along with any other civic organizations that COMELEC may wish to accredit for specific parts of the country. The national accreditation of NAMFREL should not include the inordinate additional burden of accreditation in 42,000 separate localities;

The prompt fulfillment by President Marcos this month of his commitment to appoint two additional members to COMELEC in time to join deliberations on 1986 election procedures;

The recognition of the Aquino-Laurel (UNIDO) ticket by COMELEC as the Dominant Opposition Party (DOP) as provided for in the electoral code, with all poll-watching and other rights provided for the DOP under the code;

Enforceable guarantees of equal access to media for the dominant opposition party as provided for in the electoral code. These guarantees must include the allocation of substantial, free radio and television time ("COMELEC Time") to, and its equal division between, government (KBL) and dominant oppo-

sition (UNIDO) parties, and similar provisions to govern "COMELEC Space" in newspapers;

Enforceable guarantees of reasonable access to paid radio and television time and newspaper space for the dominant opposition party in quantity and at rates identical to those made available to the ruling party;

The close and appropriate supervision of all military and para-military forces by COMELEC, as provided for in the electoral code, to assure that they are not used for purposes of partisan influence prior to the election, intimidation during the voting process, or ballot fraud in tabulating votes;

The quickest possible counting of ballots throughout the country, including those provinces most notable in the past for verified voting fraud, utilizing where possible the resources of both COMELEC and NAMFREL in a collaborative manner;

The establishment—in response to general concern and to invitations from President Marcos and Mrs. Aquino, the commissioners of COMELEC, and both government and opposition leaders—of a coordinated international observer process beginning in January 1986. This observer process must continue through vote counting and certification of ballots, and should follow the suggestion by KBL Vice-Presidential candidate Arturo Tolentino and others that observers concentrate their efforts on trouble spot provinces working in collaboration with NAMFREL and COMELEC.

The report which follows describes the constitutional and legal background of the special presidential election. It then examines in detail the potential problems mentioned above along with others which, in the opinion of the delegation, may reflect upon the credibility of the election.

The U.S. Congress, in the view of the delegation, should base any decision to send an official delegation to observe the February 7, 1986 election on the manner in which the above issues are resolved.

III. FILIPINO CONSTITUTIONAL AND ELECTION LAW FRAMEWORK

A. Election of President and Vice President

The Philippine Constitution provides for a President to be elected every six years. Art. VII, § 5. The current provision was first utilized in 1981, prior to which time the Constitution had been amended (1973) and martial law had been in effect (1972–81). Thus, the next regularly scheduled election for President is May of 1987.[1]

On November 11, 1985 President Marcos submitted a letter (Exhibit E) to the Batasan Pambansa (National Assembly) requesting the calling of a special or "snap" election prior to the regularly scheduled election. In his request President Marcos stated that he would "irrevocably vacate his office" after "the election is held and

[1] The 1987 election was to be the first election pursuant to a 1974 amendment to the Constitution at which a Vice President was to be elected. That office was abolished in 1973. If the snap election is held it will obviate the need for an election in 1987 since the winners would win six year terms expiring in 1992.

after the winner is proclaimed and qualified as President by taking his oath of office ten (10) days after his proclamation." On December 3, 1985 the Batasan enacted a bill, Cabinet Bill 7 ("C.B. 7") (Exhibit F) calling for the special election of President and Vice President on February 7, 1986 and providing for other substantive requirements relating to preparations for this election.

B. The Presidential Decree Power

The Philippine Constitution is distinguished by the broad powers granted to the President. The most sweeping of these powers is the so-called "decree power," commonly referred to as Amendment 6, which states:

> Whenever in the judgment of the President there exists a grave emergency or a threat or imminence thereof, or whenever the [National Assembly] fails or is unable to act adequately on any matter for any reason that in his judgment requires immediate action, he may, in order to meet the exigency, issue the necessary decrees, orders, or letters of instructions, which shall form part of the law of the land.

Amendment 6 (1976).

The President has the constitutional authority to issue decrees whenever he determines in his judgment that "there exists a grave emergency or a threat or imminence thereof." Therefore, if a snap election within the judgment of President Marcos would address a "grave emergency or a threat or imminence thereof" he could exercise his decree power to call for the election notwithstanding any Supreme Court decision nullifying the calling of the election by the Batasan. When this scenario was presented to Minister of Political Affairs and former COMELEC chairman, Leonardo B. Perez, he agreed that the President's decree power could be exercised in this fashion. President Marcos, on the other hand, stated to the delegation that if the Supreme Court declares C.B. 7 unconstitutional "there is no snap election." He further stated that exercise of his decree power to overrule a Supreme Court decision would be "highly questionable."

The manner in which President Marcos has offered to resign has prompted a constitutional challenge before the Supreme Court of the Philippines. Several cases have been filed claiming that it is unconstitutional for an election to be held without Mr. Marcos having actually resigned from and vacated his office. The Constitution expressly allows a special election prior to 1987 in the event of permanent disability, death, impeachment or resignation of the President, Art. VII, § 9, but is silent or whether the President may voluntarily submit to a special election while holding office.

The Supreme Court heard arguments in these consolidated cases on December 17, 1985 and is expected to announce its decision any day. In effect the Supreme Court, all of whose members are ap-

pointed by the President, will rule on whether the February 7 snap election may take place.[2]

C. The Commission on Elections ("COMELEC")

The COMELEC is created by the constitution. Art. XII (C).

Under the 1935 Constitution, the President of the Philippines appointed COMELEC members with the consent of a Commission on Appointments drawn from members of the House and Senate (since replaced by one parliamentary body, the Batasan). Art. X, § 1 (1935). When the 1973 Constitution was approved by plebiscite, the President was conferred with the exclusive power to appoint COMELEC members. Art. XII (C), § 1(2). All members are appointed by the President for a term of seven years.

COMELEC administers and enforces all election laws and judges election contests. Art. XII (C), § 2. Its members perform their duties in the dual roles of administrators and judges.

Among its powers under the Constitution, COMELEC accredits political parties and may also deploy, with the consent or at the instance of the President, the Armed Forces to assure the orderly, free and honest conduct of the elections. The involvement of the President in decisions over the deployment of forces was added in the 1973 Constitution, its 1935 predecessor Constitution having conferred exclusive authority in these matters on COMELEC. Thus, the 1973 Constitution, prepared and approved under martial law, provided for substantially broad Presidential power in election matters, namely, those concerning COMELEC appointments and uses of the military.

D. Cabinet Bill No. 7

Cabinet Bill No. 7 is a Special Enactment of the Batasan governing the election scheduled for February 7, 1986. While the Batasan enacted an Omnibus Election Code, certain of its provisions which would otherwise govern the February 7 special election have been superseded by C.B. 7, approved December 3, 1985. C.B. 7 provides terms of office of six years for the successful Presidential and Vice Presidential candidates. C.B. 7 also established certain critical time deadlines, namely, for:

1. The filing of certificates of candidacy;
2. The nomination by political parties of their candidates;
3. The registration of new voters;
4. The completion of proceedings to consider challenges to the inclusion and exclusion of certain voters.

C.B. 7 also specifies the "campaign period" for the special election during which candidates and political parties will be permitted to engage in overt, public partisan activities, including the holding of rallies, television and radio broadcasts, and other actions "to promote the election or defeat of a particular candidate or candidates to a public office". C.B. 7 § 5; Code §§ 79(b) & 80.

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[2] In light of the fact that there currently is no Vice President, it theoretically is possible for the Supreme Court to rule that a snap election may be constitutional with respect to the election of a Vice President but unconstitutional with respect to the office of President.

In addition, C.B. 7 sets forth the criteria for "accreditation" of a "Dominant Opposition Party" (DOP). C.B. 7 § 9. DOP status is of utmost significance under Philippine election laws, for it carries with it the right to designate one member to the various Boards of Election Inspectors and Canvassing. Moreover, under the Omnibus Election Code, all expenses associated with the activities of the Boards of Inspectors and Canvassing are paid by the government from specially appropriated funds.

In the course of our visit to the Philippines, certain issues arising out of the enactment of C.B. 7 were underscored as ones of particular importance. Central among these issues is the question of whether C.B. 7, in calling for a special election for President, reflects a constitutional exercise by the Batasan of its legislative authority. This issue has been addressed in the foregoing treatment of the Constitution. C.B. 7 presents as well the question of why the "campaign period" established by this bill terminates on February 5, 1986, *two days* before the February 7 election.

Because the campaign period was delimited in this fashion, neither the political parties nor the candidates may engage in certain previously identified overt partisan activities on both the day before and the day of the special election. Finally, the broad powers conferred upon COMELEC in the accreditation of DOP is a source of major concern to the principal opposition ticket, the UNIDO ticket of Aquino-Laurel.

The compressed time frame in which C.B. 7 was enacted, including the immediacy of the February 7 date of the special election, introduced some measure of confusion into early COMELEC decisions and other preparations for this election. While the Center delegation was in the Philippines, the COMELEC ordered that the date set by statute for party nominations, December 21, 1985, be moved to December 14, 1985. COMELEC contended that this earlier party nomination date was required to allow adequate time for the COMELEC to designate a DOP, and for the DOP in turn to designate their representatives to the Boards of Election Inspectors required by statute to meet on December 21 and 28 to receive and act on applications for registration of new voters. In fact, as the COMELEC also acknowledged in discussions with the Center delegation, C.B. 7 required that DOP be accredited no later than 14 working days before the first registration day of December 21—a date which COMELEC could not, in any event, meet.

E. The Omnibus Election Code

On December 3, 1985 the President approved the Omnibus Election Code (1985) ("Code") which supercedes the 1978 Election Code which had been issued during martial law by Presidential Decree No. 1296. In American jurisprudence the Code is analogous to state election administration laws and laws regulating fair campaign practices. The Code regulates elections at all levels of Philippine government from the President down to the baranqay officials, the barangay being the lowest unit of Filipino government. Unlike American elections which may be held and administered separately by state or local officials, all Philippine elections are centralized

through COMELEC. Provincial and local elections, for example, will be held nationwide in May 1986 and supervised by COMELEC.

The Code was debated by both ruling and opposition parties extensively before enactment; and it appears to be the source of significant pride within both government and opposition circles. The Code contains extensive regulation of all aspects of the election process, the most important of which will be reviewed briefly in this section of our Report.

1. COMELEC

The Code delineates in greater detail the broad powers conferred upon COMELEC by the Constitution.

(a) Control over the Military

COMELEC possesses plenary power to deploy national and local law enforcement agencies, and the Armed Forces of the Philippines, "to act as deputies for the purpose of insuring the holding of free, orderly and honest elections." Code § 52(b). The COMELEC Chairman for Region XI, headquartered in Davao City on the island of Mindanao, confirmed that, in consultation with the national COMELEC office, he has in the past, and anticipated that he would in the future, be required to command the local police or Armed Forces to assure the orderly conduct of elections.

(b) Registration of Political Parties; Designation of "DOP"

COMELEC is also responsible for the registration of political parties, and for the designation at its discretion of the DOP.

(c) Accreditation of Citizens' Arms

Among the most important functions discharged by COMELEC, the agency may "enlist" or designate what are popularly known as non-partisan "citizens' arms" which, in the words of the statute, are requested "to undertake a coordinated operation and activity to assist [COMELEC] in the implementation of the provisions of this Code . . ." Code § 52(k). In 1984, by resolution, COMELEC denominated NAMFREL which was widely credited, by both opposition and government representatives, with assisting with the management of an election considered among the most orderly and fraud-free in Philippine history.

(d) Certification of Candidates

COMELEC also exercises authority over the certification of candidates for public office, including the office of President. Among other powers, COMELEC may cancel the certificate of candidacy of so-called "nuisance candidates". Code § 69. Determination of which candidates constitute "nuisances" has a significant bearing on COMELEC's decisions with respect to the allocation of television and radio time on a no-free basis, known as "COMELEC time."

2. REGULATION OF CAMPAIGN ACTIVITIES

The Code also extensively regulates campaign activities and the dissemination of "election propaganda." For these purposes, the "Campaign period", set under C.B. 7 for December 11 through Feb-

ruary 5, 1986, is controlling, because the Code makes it unlawful for any candidate or party "to engage in an election campaign or partisan political activity except for the campaign period". Even during the campaign period, certain forms of "election propaganda" are prohibited. Code §80. Certain persons representing the opposition, with whom the Center delegation met, expressed concern about the Code's prohibition on the public display of any propaganda disseminated "by means of cinematography, audio-visual units or other screen projections." Code §85(d). In this instance, as in other issues under the Code, certain well-informed members of the government, including members of the parliament involved in the drafting of the Code, advised that this and similar restrictions on overt political activity during the campaign period are not enforced.

The availability of radio and television time is a matter regulated by COMELEC. It regulates the provision of COMELEC time, free of charge, to be "allocated equally and impartially among the candidates . . ." Code §92. COMELEC also is empowered to assure that political parties and candidates are entitled to radio and television time on an "equal opportunities" basis with respect to quantity of time and rates. Code §86(a).

3. REGULATION OF CAMPAIGN FINANCE

Campaign finances are broadly regulated by the Code, but virtually every participant in the process, both government and opposition, declared that these financing restrictions are "dead" and unenforced. For example, candidates and political parties are subject to overall limitations on their expenditures during the campaign period. Code §§ 100 & 101. While the Code provides for reporting of contributions and expenditures, presumably to enable COMELEC to monitor compliance with these limitations, we were advised that these reports were by and large pro forma. In some cases, we were advised, candidates filing reports with COMELEC noted only that their "expenditures complied with the limits set by law," without further itemization. It was widely recounted that one hapless candidate in recent years made a full and open disclosure of his finances, resulting in a determination by COMELEC that his expenditures violated the legal limit and that he was disqualified to hold office.

The Center delegation was assured that these acts of candor were not widespread among political parties or candidates. As a practical matter, therefore, there are no limitations on financial activity by either political parties or candidates.

In this regard, opposition representatives expressed concerns about the President's broad power over the disbursement of government funds. Under Presidential Decree 1177, still in effect, the President may recognize and redeploy the budgetary resources allocated to various government agencies. The power over government finance reflected in this decree was viewed as a potential source of abuse by members of the opposition who are concerned that government funds may be indiscriminately and without disclosure depioyed in support of the KBL's Presidential and Vice Presidential ticket. Concerns about financing were also expressed by ruling

party representatives who fear the funding of the UNIDO ticket by foreign sources, particularly from the United States.

4. REGISTRATION OF VOTERS

C.B. 7 and the Code prescribe an elaborate procedure for the registration of voters. Voters duly registered in the last election are transferred to a "permanent" list, and to this list is added those voters registered for the first time, for the special election, on the December 21 and December 28 dates specified by C.B. 7. C.B. 7 § 6; Code § 113. The registration of voters is conducted by and under the supervision of the Board of Election Inspectors which includes representatives designated by the ruling party and the duly accredited DOP plus a chairman and a poll clerk both of whom are public school teachers.

5. THE POLLING PLACE AND BARANGAY OFFICIALS

The establishment and management of polling places receives extended treatment in the Code. The precise physical arrangement of each polling place is diagrammed in the Code which assigns specific positions in the polling place to the "watchers" and to the Board of Election Inspectors. Code § 159. Only voters in the process of voting, together with members of the Boards of Election Inspectors and watchers, may remain in the polling place at any time. Code § 192. In addition, the Code provides that each registered political party, coalition of political parties and independent candidates may each designate a "watcher" also entitled to be continuously present in the polling place. Code § 178. Supplementing the activities of these candidates' watchers, will be watchers representing the duly accredited "citizens' arm" of the Commission. Code § 180.

One significant issue in past elections, and of continuing concern to opposition representatives, is the role of local elected "barangay" officials in the polling place. In 1984, in the face of explicit statutory law to the contrary in the old 1978 election code, COMELEC issued a resolution disqualifying barangay officials from serving as poll-watchers or members of Boards of Election Inspectors. Exhibit I. COMELEC apparently acted in response to concerns that the presence of these local officials throughout the voting process would generate abuses, including but not limited to undue influence over the voting behavior of their constituents. The Code, however, repeated the authorization contained in its 1978 predecessor that these officials could be designated by the ruling party or DOP to act as watchers or Board members. Code § 192. COMELEC has stated that it will not, as it did in 1984, disturb this legislative judgment.

6. PREPARATION OF BALLOTS AND RETURNS

In preparing ballots and election returns, COMELEC appoints a committee on printing, storage and distribution. This committee includes five members, two of whom are COMELEC members; one of whom is designated by the Commission on Audit; and the last two of whom are designated by the ruling party and the DOP. This

committee is charged with printing and preparing for distribution the ballots and election returns. Code §§ 187–189.

7. COUNTING AND TABULATION OF VOTES

The counting and tabulation of votes received the most prominent attention in our visit to the Philippines. Both government and opposition representatives agreed that it is at this point in the formal process that fraud or other irregularities usually occur. For purposes of this Report, we can identify critical phases in the execution of ballots, their tabulation, and their transmission for a final tally to COMELEC.

Actual voting is done throughout the Philippines by paper ballot. There is no mechanical or machine voting. Once a ballot has been executed, the voter returns it physically to the Chairman of the Board of Election Inspectors who deposits it into the ballot box. Code § 198(a). When the balloting is completed, the Board of Inspectors begins to unfold ballots, forming separate piles of 100 ballots each, and the Chairman of the Board proceeds to read each ballot, "assuming such a position as to enable all of the watchers to read such names." Code § 210. The Chairman signs and affixes his thumb mark to the back of each ballot which has been counted; and the poll clerk and a third member record the running total on an election return and a "tally board or sheet." *Id.*

The election return must be prepared simultaneously with the counting of votes in the polling place. Code § 212. Once the election return is completed, each member must sign the return and affix a clear imprint of their thumb mark in full view of the public and the watchers. Each election return bears an election return serial number which is verified. *Id.*

In Presidential elections, six copies of the returns are prepared. One is deposited into the compartment of the ballot box which holds ballots; and in the case of municipalities, two copies (including the original) are handed to the municipal election registrar who must deliver the original to the provincial election supervisor and forward one copy to COMELEC. Additional copies are given to each of the authorized representatives of the accredited political parties. In the case of cities, the registrar retains the original copy for submission to the provincial election supervisor and forwards the other copy to COMELEC. Code § 214(1).

It is on the basis of the election returns that the Board of Canvassers canvasses the votes and forwards their canvass to the Batasan. Code § 231. The Canvassing Boards, like the Boards of Election Inspectors, operate at the provincial, city, district and municipal level. On each board, representatives may be designated by the ruling and dominant opposition parties. The Board of Canvassers meets in the late afternoon of election day, at places designated by COMELEC, to receive election returns and begin the canvassing process. Code § 231. Candidates and political parties may each appoint one watcher to a Board of Canvassers who may observe their proceedings and file protests. Code § 239.

56-746 O—86——4

F. Election Contests

On December 3, 1985, on the same date that the Batasan enacted C.B. 7 and the Code, the assembly also passed a law (P.B. No. 6732) providing for an "independent presidential electoral tribunal" to decide election contests in Presidential elections. This tribunal will be composed of nine members, including the Chief Justice of the Court and two other justices; three nominated by the "majority party" from among its members in the Batasan; and three will be Batasan members of the "minority party." The Chief Justice chairs this tribunal which must decide the contest within twelve months of filing. A contest petition may be filed by any registered candidate for President or for Vice President who received the second and third highest number of votes. In discharging its duties, the tribunal may exercise all the powers conferred upon a plenary court, including the issuance of subpoenas, the taking of depositions, and compulsory compliance with its orders. The tribunal is also empowered to take charge of all ballot boxes, election returns and other election materials and place them under guard by deputies appointed by the tribunal.

IV. PREPARATIONS FOR THE PRESIDENTIAL ELECTION

A. Ballots and Election Material Preparation

The special election for President, the "snap" election, provides a very abbreviated period for the preparation of materials needed to conduct voting. The most time consuming and important materials which must be prepared are the ballots and tally sheets. A common device to ensure the security of the ballot and the tabulating sheets is to use a special watermarked paper. The COMELEC indicated they could not obtain a new watermark in less that 90 days, so the Commission has been left with no practical alternative other than to use the watermark from the 1984 election. Opposition figures have expressed concern that the use of the old watermark might facilitate the preparation of fraudulent ballots. Although this concern appears reasonable, there are no alternatives readily available to the Commission on Elections.

B. Tabulation

The tabulation of the results of an election in a country as large as the Philippines is a very substantial task. The Philippines has more than 27 million voters broken into 90,000 precincts, 1,542 municipalities, 73 provinces, and 13 regions. COMELEC has the stated aim of announcing the results of the election within 24 hours of the closing of the polls. For that purpose, they are creating an operation called "Super Quick Count."

They propose to employ a consortium of private data processing consultants to facilitate this program. The data from 300 precincts is to be hand delivered to a data entry station. There will be 300 data entry stations located in local telephone exchanges which then will act as transmission points for the precinct results. The 300 stations are to be no more than two hours travel time by foot from any polling place. Each of the 300 transmission points is to

have a personal computer for the tabulation of the precinct data. The data will be transmitted via telephone lines to a satellite uplink through the GE Information Services Network.

Data would be transmitted via satellite to three computer centers (two in the United States and one in Europe) and then retransmitted for central tabulation to Manila. The developers of this system hope that within 10–14 hours, 80% of the vote will be transmitted to a central computer in Manila. The developers anticipate that approximately 1,500 workers will be required to man the system. They hope to have sufficient reserve micro computers placed in strategic locations to replace any non-functioning units within one hour.

The developers foresee a series of built-in measures to counter possible vote fraud. These include providing each station operator at the 300 transmission points with individual "pass codes;" programming the software to include the exact number of registered voters in each precinct so that should the number of votes entered exceed that on record an error code will appear; entering the name of the COMELEC official delivering the precinct canvass sheets into the computer; and, printing a copy of vote tabulations transmitted to be kept at each of the 300 transmission points.

If the system works as described, it would substantially assist in limiting the opportunities for fraud in the tabulation process. COMELEC has indicated that the press, opposition representatives, independent citizens' arms, and any international observers will have complete access to observe this process. A quick, accurate tabulation of election results is one of the best safeguards for the security of the ballot.

Although this program sounds promising, grave doubts must exist as to its actual operation. COMELEC Commissioners indicated that the funding of this program was dependent on a decision of the President. No equipment has been purchased or leased, no data entry workers have been hired or trained and no contracts have been signed. Yet only a very short period of time remains prior to the election. Even some members of COMELEC have expressed doubt as to the probability of this operation successfully taking place. If it fails, the quick central gathering of results will still be dependent upon oral telephone transmissions and runners. In the 1984 election, NAMFREL conducted a quick count operation in certain sections of the nation with a limited degree of success. The quick tabulation, transmission, and public dissemination of election results by COMELEC and/or NAMFREL are vital to ensure the credibility of the election.

C. Dominant Opposition Party

The dominant opposition party is the group permitted under Philippine law to have official poll workers in each of 90,000 precincts. The dominant opposition party in the upcoming snap election is clearly the UNIDO Aquino-Laurel ticket. This party, however, has not as of the date we left the Philippines been designated as the dominant opposition party. It is reasonable to assume the COMELEC will designate them as the dominant opposition party nationwide within a brief time, and we received some indications that

the designation may occur this week. The failure of COMELEC to designate this group as the dominant opposition party would make the holding of credible elections in the Philippines impossible.

D. Role of the Military

We have been told by the government that the army and the Civilian Home Defense Force will remain in their barracks uninvolved in the election process unless required to protect and preserve the process. Clearly there is a proper role for the military in the protection of ballots and polling places. There are two active insurgent groups in the Philippines. Both groups have a substantial ability to disrupt the election through the use of violence. Two Philippine provinces remain under martial law.

In the 1984 election in Region XI of Mindinao, 168 ballot boxes out of 5,100 were stolen. There are 13 Regions in the Philippines. It is unclear at this time whether Moslem insurgents or the New People's Army (NPA) will attempt to disrupt the electoral process. There is a role for the military to protect the integrity of the process from interference by these insurgent groups or from any of the other armed elements of Philippine society.

Opposition members have expressed a grave concern that the army and especially the Civilian Home Defense Forces might be used to intimidate poll workers and steal unfavorable election returns. Substantial allegations have been made that in the past members of the armed forces were used as "flying voters," moving from polling place to polling place, casting numerous votes.

All opposition discussion of the military has not been negative. In the past, ROTC cadets have been used with substantial opposition support as poll watchers. In the upcoming election, they are not being permitted by COMELEC to serve as poll watchers much to the chagrin of the opposition.

If segments of the military actively interfere with the electoral process, no citizen's organization nor opposition political element will be able to stop their interference and preserve the integrity of the process. They have guns. The opposition electoral forces do not.

The opposition has expressed strong doubts as to the neutrality of many of the senior officers of the armed forces. More confidence has been expressed by the opposition in the loyalty of junior officers to constitutional and legal processes. The "We Belong" movement of junior military officers was often cited as an indication that young officers might resist efforts to have the army actively intervene in the political process. The political neutrality of the military is vital to a fair and credible election.

E. NAMFREL

NAMFREL, the National Citizens Movement for Free Elections, was organized in October 1983 by a group of citizens led by Jose Concepcion, Jr. NAMFREL is closely linked with laity groups within the Philippine Catholic Church and has as constituent groups numerous civic organizations such as various chambers of commerce, Kiwanis clubs, Rotary clubs, the Trade Union Congress of the Philippines, and Bar associations. The stated aim of NAMFREL is to harness citizens' power in working toward free, orderly,

and honest elections by organizing and training volunteers nationwide to monitor the electoral process.

In the 1984 elections, two organizations were accredited nationwide as citizen's watchers, NAMFREL and one which was by general agreement totally ineffective. NAMFREL receives relatively high marks from all sides (government and opposition) for its role in helping the 1984 elections to be relatively fraud free although there were significant areas of the country where NAMFREL was unable to provide poll watchers. NAMFREL also conducted a vote tabulation system named "Operation Quick Count" which often produced voting results in advance of COMELEC. In those areas where NAMFREL was active, it was, in the words KBL vice presidential candidate Tolentino, "A very effective organization." An example of NAMFREL's publications appears at Exhibit G.

The COMELEC has the authority to certify citizens' arms organizations. They have indicated that they will accredit NAMFREL, but have not clearly indicated whether NAMFREL will be accredited nationwide. They have also indicated that they may accredit other citizens' arms such as the Integrated Bar of the Philippines and the Jaycees. Some COMELEC commissioners have stated that they see no problem with accrediting NAMFREL nationwide and additionally accrediting other citizens' arms on a regional basis.

It is not clear that this will become the official policy of COMELEC. Also, COMELEC is proposing to change its requirements on citizens' arms poll watching groups requiring them to submit names of designated poll watchers in advance for approval at the local level. See Exhibit H. In 1984 this was not a requirement. NAMFREL and opposition groups argue that such advance list provision will enhance the opportunity for these individuals to be pressured or intimidated by government or KBL officials. Some COMELEC commissioners are suggesting this change from the 1984 procedure is an effort to ensure the impartiality of NAMFREL watchers.

Accusations have been made by some COMELEC commissioners and other members of the government the NAMFREL is linked to opposition organizations. It does appear that some of NAMFREL's leaders have links to opposition groups but President Marcos' vice presidential running mate, Tolentino, observed that "only a very few individuals (NAMFREL volunteers) were not fair." Each side also acknowledges that in certain areas NAMFREL may have been used by the KBL and certain volunteers were biased in favor of KBL candidates.

Allegations have been made that NAMFREL is receiving funds from foreign sources. We have no specific evidence as to the truth of this assertion.

The accreditation of NAMFREL nationwide on a basis similar to the 1984 election is absolutely vital for the conduct of a free and credible election in the Philippines. Failure of this organization to be accredited and afforded a reasonable opportunity to conduct their poll-watching functions and reporting, including "Operation Quick Count," would raise the most serious questions as to the integrity of the whole electoral process.

F. Ballot Boxes

In the upcoming elections, there will be 90,000 precincts. The Code requires that ballot boxes be constructed uniformly throughout the Philippines with one side transparent. Ballot boxes are to be secured with three locks plus two self-locking metal seals.

COMELEC officials have indicated that due to the excessively short time frame, only 25,000 to 30,000 one-sided transparent ballot boxes will be manufactured and available in time for the election. The remaining precincts will employ the ballot boxes used in prior elections. These boxes are of the same construction with the exception of the transparent side.

As yet, it has not been determined in which precincts the transparent-sided ballot boxes will be placed. However, COMELEC officials state that it is probable they will be located in precincts where COMELEC anticipates fraudulent voting activity and as replacement boxes in precincts where ballot boxes were stolen in the 1984 election.

One-sided transparent ballot boxes are designed to deter fraudulent voting activity, principally the stuffing of ballot boxes prior to the opening of the polls. NAMFREL expressed some concern that the secrecy of the ballot could be jeopardized with the transparent box resulting in the intimidation of the voter. However, there is general agreement between all groups—COMELEC, opposition, NAMFREL—on the effectiveness of the box in limiting ballot box stuffing prior to poll openings.

G. Ink

The Code requires that a mixture of silver nitrate and cammasie blue be applied to a voter's fingernail as a means of identifying a person who has voted and to prevent a person from voting more than once.

Controversy surrounded the use of the identifying ink in the 1984 elections. NAMFREL publicly disclosed that the ink being used was, in fact, easily removable with acetone. NAMFREL suggested that COMELEC had replaced the original "permanent" ink with the faulty solution. It is COMELEC's contention that they acted in good faith and ordered the mixture upon the advice of an American consultant. They stated that the mixture they received was simply a "bad batch" and that NAMFREL sought to discredit them rather than work with them to alleviate the problem. This has resulted in some personal ill will between NAMFREL and COMELEC officials.

COMELEC has stated that the ink to be used in the upcoming election will be of a different mix than the one used in the 1984 elections.

H. Registration

Citizens, 18 years of age and not otherwise disqualified, may register to vote on December 21 and 28, 1985, from 7:00 a.m. to 4:00 p.m. Applicants must complete a voter's affidavit which includes thumb prints and signature and must supply four photographs, one of which is affixed to the voter's identification card.

In response to our question on the availability of photographic facilities in remote areas of the country, COMELEC officials advised that facilities were available in all areas. COMELEC is not required to and will not provide such services. One COMELEC official stated that, in certain instances, applicants known to local officials might be allowed to register and subsequently vote even though their identification card was defective in that it lacked a photograph.

Selective application and enforcement of the registration procedure could hamper the accuracy of the registration lists and jeopardize the ability to guard against fraudulent voting activity by "flying voters" (unauthorized transient voters) and by ghost voters (more votes than registered voters, or more registered voters than residents).

I. COMELEC Members

Currently, there are two vacancies on COMELEC; the remaining seven members were appointed by President Marcos. The current COMELEC is composed of members who have been appointed since 1980.

In the course of our meeting, President Marcos stated that he expects to fill the vacancies prior to the election. He further indicated that he would like a recommendation from the judiciary and bar and would not be opposed to appointing a member recommended by NAMFREL.

The opposition is of the strong opinion that, with the exception of one Commissioner who is considered "mildly independent," COMELEC commissioners are partisan KBL members who are under the direction of President Marcos. The members of COMELEC insist that they are independent of his control and conduct their functions in a fair and non-partisan manner.

J. Access to Media

It is the position of the opposition groups that the KBL and the government own or control the major media outlets and markets in the Philippines. The opposition has expressed grave doubts as to its ability to obtain equal access to the media or even adequate press coverage of its activites.

During our visit, we were advised by an Aquino campaign official that they had reserved television time, but at the last minute it was cancelled with no explanation. Because foreign journalists have been unable to obtain adequate television or studio time for opposition interviews, Mrs. Aquino and other opposition leaders, including Senator Laurel, have flown on occasion to Hong Kong for such purposes. Foreign journalists also have been forced to fly their tapes out of the country rather than risk transmitting them out of the Philippines.

Candidates seeking to convey their message to the public through the print and electronic media may do so through (1) the purchase of paid media, (2) the use of COMELEC time and space, and (3) press coverage. The COMELEC is charged with insuring that equal media use is available to all candidates.

Radio is the primary means of communication throughout the Philippines. At issue is who owns or controls the approximately 350 radio stations in the country. President Marcos, KBL officials and COMELEC commissioners have stated that a significant number of radio stations are owned and operated by opposition groups resulting in KBL candidates being denied access to those stations. With the exception of one station which is considered somewhat independent, television stations are under the control of the government.

Conversely, opposition leaders and members of the media advised that the overwhelming majority of radio and television stations are government influenced or controlled. Opposition leaders have specifically stated that they have been unable to purchase radio time on most government controlled or influenced stations.

K. COMELEC Time and Space

During the course of the campaign, COMELEC is required to provide to the candidates on a daily basis, television and radio time on every station in the country known as COMELEC time, and space in at least one newspaper in every province or city known as COMELEC space. Under the Code, COMELEC time and space is to be provided free of charge and equally to all candidates.

COMELEC commissioners have indicated that they intend to designate one-half hour daily of prime television and radio time as COMELEC time and will divide that time equally between candidates. We were unable to obtain a definitive statement as to whether this time would be equally divided between all candidates who have filed for the office of president (27) and vice president, or solely between the ruling party and the opposition ticket led by Mrs. Aquino. President Marcos stated that he would support dividing COMELEC time between the two major campaigns.

If the two major candidates each receive one half hour of free time at a reasonable hour each day of the campaign period on all television and radio stations as represented by COMELEC, it will relieve to some degree the opposition's concern about media access.

The campaign period is very abbreviated. COMELEC time has not begun. As each day passes, a significant portion of the opposition's opportunity to discuss campaign issues through the mass media also passes.

V. THE ROLE OF INTERNATIONAL OBSERVERS

Both government officials and leaders of the opposition indicated during our visit on a number of occasions that they welcomed the presence of international observers during the presidential election process. Such declarations of support for observers from abroad were made by the two presidential and two vice-presidential candidates, the Commissioners of COMELEC, NAMFREL, and a broad range of government and opposition leaders. For his part, President Marcos noted that it would be impossible "in a free society" to control or keep out observers in any case and that there would be no attempt to stop any group—whether official, unofficial, or media—from entering the Philippines to watch the election.

The KBL's vice presidential candidate, Arturo Tolentino, stressed the importance of international observers visiting those provinces which have been the scene of electoral controversies in the past involving proven fraud or its allegation, especially those in the country well beyond the Metro Manila area. Senator Tolentino also urged the international observers to associate themselves with NAMFREL whose activities in 1984 he praised despite what he described as its occasional lapses into partisanship on one side or the other in specific localities.

Although both KBL and UNIDO partisans have stressed their support for observers of the February 7, 1986 election, a number of KBL leaders have indicated their deep concern regarding the question of interference in the internal affairs of the Philippines by such observers. President Marcos has already made this a major issue in his campaign for re-election, and we heard vigorous arguments on the matter from others among his supporters, including key leaders of the Batasan. See Exhibits J and K.

Questions concerning the national accreditation of NAMFREL brought from many of these same KBL leaders, including President Marcos, allegations that an electoral monitoring organization of the 1950s, also named NAMFREL though with no discernible link to today's National Citizens Movement for Free Elections, had been at least partially funded and supported by the U.S. Central Intelligence Agency. We also heard on several occasions from government supporters that U.S. funds would be sent to support opposition candidates or citizens' arms such as NAMFREL. Opposition leaders, on the other hand, expressed concern that funds earmarked by the U.S. Congress either for military or economic assistance to the Philippines would be diverted, either directly or indirectly, into government spending on the presidential campaign.

The delegation is persuaded, however, that the international observer process can be managed in a way that satisfies legitimate concerns in the Philippines over interventionist actions while, at the same time, gaining close understanding of the realities of the election prior to, during, and after the balloting. Senator Tolentino's suggestion for a close liaison nationally between international observers and NAMFREL as they perform their functions constitutes an essential component of an effective process. Similarly close liaison with COMELEC is the second component, and in both cases should center on especially disputatious provinces and problem areas where charges of election irregularities or fraud have been most common. Also helpful would be frequent informal meetings with those military or para-military officials responsible for assuring election fairness and order within each province.

Although a number of groups and individuals may visit the Philippines to "observe" the elections, the delegation strongly believes that a coordinated bipartisan observer effort would be most effective. We are prepared to discuss our ideas for an observer process with the Committee if it so desires.

VI. CLOSING STATEMENT

A decision on whether or not to sponsor a formal U.S. congressional observer delegation at the time of the election should await,

in the delegation's view, resolution of the grave concerns expressed in this report regarding electoral procedures and upon subsequent reports by designated observers.

In the end, however, the most expert international observers cannot decisively guarantee the integrity of an electoral process in the absence of an aroused and observant citizenry within a country. While in the Philippines, the delegation heard credible expressions of concern for a free and honest election from political leaders in both government and opposition, COMELEC, the clergy, military officers, business and labor leaders, and the coordinators of NAMFREL. In short, on all sides, the forthcoming election is viewed as a watershed in the history of the Philippines.

Although predictions concerning the elections at this point remain perilous, the critical procedural issues described above must be resolved. Otherwise, the earnest intentions of all Filipinos of good will to assure a free, fair, and honest election will founder. That nation will then confront an uncertain future without the electoral legitmacy upon which all democratic societies depend.

READEX FICHE

A. Letter From Senator Richard G. Lugar and Senator Claiborne Pell to Dr. Allen Weinstein, November 21, 1985

RICHARD G. LUGAR, INDIANA, CHAIRMAN
JESSE HELMS, NORTH CAROLINA
CHARLES McC. MATHIAS, JR., MARYLAND
NANCY L. KASSEBAUM, KANSAS
RUDY BOSCHWITZ, MINNESOTA
LARRY PRESSLER, SOUTH DAKOTA
FRANK H. MURKOWSKI, ALASKA
PAUL S. TRIBLE, JR., VIRGINIA
DANIEL J. EVANS, WASHINGTON
CLAIBORNE PELL, RHODE ISLAND
JOSEPH R. BIDEN, JR., DELAWARE
PAUL S. SARBANES, MARYLAND
EDWARD ZORINSKY, NEBRASKA
ALAN CRANSTON, CALIFORNIA
CHRISTOPHER J. DODD, CONNECTICUT
THOMAS F. EAGLETON, MISSOURI
JOHN F. KERRY, MASSACHUSETTS
JEFFREY T. BERGNER, STAFF DIRECTOR
GERYLD B. CHRISTIANSON, MINORITY STAFF DIRECTOR

United States Senate
COMMITTEE ON FOREIGN RELATIONS
WASHINGTON, DC 20510

November 21, 1985

Dr. Allen Weinstein
President
The Center for Democracy
1155 15th Street, N.W.
Washington, D.C. 20005

Dear Dr. Weinstein:

We have been following with interest the Center for Democracy's discussions with members of the Committee concerning a visit to the Philippines in connection with the Presidential and Vice Presidential election now scheduled for February 7, 1986. The House Foreign Affairs Committee has also been involved in these discussions, as have other members of both Senate and House particularly interested in the Philippines. We understand further that the parameters of such a visit by the Center have been explored over a period of several months and a tentative conclusion reached concerning its utility.

The purpose of this letter is to request the Center for Democracy to undertake a visit to the Philippines on behalf of the Committee on Foreign Relations in early December. The purpose of this visit would be:

1. To demonstrate the concern of the Committee that the Presidential election be fair, free and an accurate reflection of the wishes of the Philippine electorate, and that preparations now in progress are supportive of such an election;

2. To study the electoral code recently passed by the Philippine National Assembly;

3. To observe and analyze the preparations being made under this electoral code (and other pertinent laws and regulations) for the holding of an election in February 1986 or later;

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4. To discuss with relevant participants the progress of election preparations, including problems; and

5. To report back to the Committee on Foreign Relations as soon as possible.

It is our understanding that the Center would invite staff members from the Republican National Committee and the Democratic National Committee as well as specialists drawn from such agencies as the Federal Election Commission, as the Center deems appropriate and useful.

The Committee on Foreign Relations would appreciate a written report of the Center's tentative findings immediately upon return to the United States. It is possible that you, as President of the Center, would be invited to testify before the Committee to discuss your findings in greater detail.

It is our understanding that this project will be conducted at no cost to the Committee on Foreign Relations.

Let me express in advance the Committee's deep appreciation for the Center's willingness to undertake this research mission on such short notice. We trust that the Center's report will be helpful to the Committee, and to the Senate as a whole, in arriving at an informed judgment on the conduct of the forthcoming elections in the Philippines.

Sincerely,

Richard G. Lugar
Chairman

Claiborne Pell
Ranking Minority Member

RGL:fbj

B. H. Con. Res. 232, Concurrent Resolution on . . . Democracy in the Philippines

99TH CONGRESS
1ST SESSION

H. CON. RES. 232

IN THE SENATE OF THE UNITED STATES

Received

CONCURRENT RESOLUTION

Expressing the sense of the Congress with respect to the restoration of democracy in the Philippines

Whereas the United States and the Republic of the Philippines have strong ties born of shared historical experiences and common interests,

Whereas the security of the Philippines is of vital importance to United States security,

Whereas the Republic of the Philippines is experiencing serious political, economic, and security problems which directly threaten the stability of the country and the well-being of the Filipino people,

Whereas reinvigoration of Philippine democratic institutions offers the best means of restoring public confidence in the government and of defeating the growing Communist insurgency,

Whereas the Congress has stated that when considering further provision of economic and military assistance to the Philippines, it intends to take into account the degree to which democratic reforms are taking place in that country,

Whereas the United States imparted a legacy of democracy to the Philippines which includes the holding of elections at all levels of government, and

Whereas President Ferdinand Marcos has indicated his intention to seek an early Presidential election: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) notes the pledge of President Marcos for free and fair elections in the Philippines, and

(2) believes that in order to provide constitutional guarantees for a honest election which will be deemed credible by the Filipino people, it is important that the following steps be taken:

(A) Determination of the timing and modalities of the election in accordance with the Constitution of the Philippines.

(B) Appointment of an impartial Commission on Elections (COMELEC) staffed by politically independent commissioners.

(C) Timely accreditation of a freely functioning, politically independent, citizens election monitoring organization which has access to all polling places in the country and to all phases of the electoral process, and which is able to report all of its findings fully and in a timely fashion.

(D) Adequate access to radio, television, and the print media for members of the democratic opposition during the entire campaign period.

(E) Neutral conduct by the Philippine military establishment.

Passed the House of Representatives November 14, 1985.

Attest: BENJAMIN J. GUTHRIE,

Clerk.

Excerpt from the Congressional Record, November 14, 1985, page S 15670-15675.

RESTORATION OF DEMOCRACY IN THE PHILIPPINES

Mr. DOLE. I ask unanimous consent that the Senate turn to House Concurrent Resolution 232, a concurrent resolution expressing the sense of the Congress with respect to the restoration of democracy in the Philippines.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A House concurrent resolution (H. Con. Res. 232), expressing the sense of the Congress with respect to the restoration of democracy in the Philippines.

(Continued on next page...)

C. Philippines Electoral Project Meetings—July-December, 1985—List of Attendees*

MEMBERS OF THE UNITED STATES SENATE

The Honorable Alan Cranston, (D-CA)

The Honorable Daniel J. Evans, (R-WA)

The Honorable John F. Kerry, (D-MA)

The Honorable John Melcher, (D-MT)

The Honorable Frank H. Murkowski, (R-AK)

The Honorable Larry Pressler, (R-SD)

MEMBERS OF THE UNITED STATES HOUSE OF REPRESENTATIVES

The Honorable Doug Bereuter, (R-NE)

*(Persons named attended at least one meeting)

PHILIPPINES ELECTORAL PROJECT MEETINGS
JULY-DECEMBER, 1985 - LIST OF ATTENDEES*

DEMOCRATIC NATIONAL COMMITTEE

Mr. Brian Lunde,
Executive Director

REPUBLICAN NATIONAL COMMITTEE

Mr. Frank J. Fahrenkopf, Jr.,
Chairman

Mr. John Zagami,
Assistant to the Chairman

STAFF MEMBERS OF THE U.S. CONGRESS

Ms. Jamie Boucher,
Staff Member
Senator Frank H. Murkowski

Mr. Frederick Z. Brown,
Professional Staff Member
Senate Foreign Relations Committee

Mr. Vance Hyndman,
Staff Consultant
House Foreign Affairs Committee

Mr. Richard McColl,
Staff Member
Senator John F. Kerry

Mr. Stanley D. Roth,
Staff Consultant
House Subcommittee on
Asian & Pacific Affairs

Ms. Christine Dawson,
Staff Member
Senator Daniel J. Evans

Mr. Peter W. Galbraith,
Professional Staff Member
Senate Foreign Relations Committee

STAFF MEMBERS OF THE U.S. CONGRESS

Mr. Steven Smith,
Staff Member
Senator Paul Simon

Ms. Nancy Soderberg,
Staff Member
Senator Edward M. Kennedy

Ms. Cindy Sprunger,
Staff Member
Congressman Jim Leach

UNITED STATES DEPARTMENT OF STATE

Mr. Paul Wolfowitz,
Assistant Secretary of State for
East Asian and Pacific Affairs

Mr. John Maisto,
Philippines Desk Officer

Mr. Ravic Huso,
Philippines Desk Human Rights Officer

UNITED STATES INFORMATION AGENCY

Mr. Robert Nevitt,
Director
East Asian Affairs

Mr. William Linderking,
Deputy Director
East Asian Affairs

THE WHITE HOUSE

Mr. Walter Raymond,
National Security Council

THE CENTER FOR DEMOCRACY

Professor Allen Weinstein,
President of the Center

Mr. Caleb McCarry,
International Programs

*(Persons named attended at least one meeting)

D. List of Meetings, the Center for Democracy Delegation, the Philippines, December 9–14, 1985

Monday, December 9, 1985

09:00 American Embassy Country Team Briefing

12:30 Luncheon at DCM's Residence:

Jaime N. Ferrer,
Member (UNIDO), Batasang Pambansa
COMELEC Chairman 1969-1972

15:30 Meeting with NAMFREL Leaders:

Jose Concepcion,
Co-Chairman

Bishop Antonio Fortich,
Co-Chairman

Vicente "Ting" Jaime,
Vice Chairman

Masiono "Mars" Quesada,
Chairman, Special Operations
Former Secretary General of NAMFREL

General Simplicio Rivera (Ret.),
"Last Watering Hole" (group of retired officers)

Tuesday, December 10, 1985

07:30 Breakfast with COMELEC Commissioners:

Victorino A. Savellano,
Chairman

Jamie C. Opinion,
Commissioner

Froilan H. Bacungan,
Commissioner

Ramon H. Felipe,
Commissioner

Mangontawar B. Guro,
Commissioner

Quirino A. Marquinez,
Commisioner

10:20 Meeting at COMELEC Headquarters:

Jamie C. Opinion,
Commissioner

Jaime Layosa,
Executive Director

Nasi Dubuque,
Consultant, "Operation Super Quick Count"

11:45 Meeting at Camp Aquinaldo:

Juan Ponce Enrile,
Minister of Defense

12:30 Luncheon with COMELEC Staff Members:

Jaime Layosa,
Executive Director

Silvestre Bello,
Assistant Executive Director of Operations

Vicente "Vic" Gerochi
Director,
Election and Barangay Affairs Department

Giremigio Octavio,
Assistant Director of Operations

Horacio Apostal,
Counsel to COMELEC

Nancy Madarang,
Election Contests Administration

Beatrice Sebastian,
Education Services

Francisco Sabayan,
Election Contests Administration

Nasi Dubuque,
Consultant, "Operation Super Quick Count"

16:20 Meeting at Ateneo de Manila:

Father Joaquin Bernas, SJ,
President of Ateneo de Manila University

56-746 O—86——5

19:30 Dinner with NAMFREL Leaders:

Jose Concepcion,
Co-Chairman

Vicente "Ting" Jamie,
Vice Chairman

Dante Santos,
Chairman, Finance Committee
Former Member, Agrava Board

Imelda Dayrit,
President, Catholic Women's League

Benedicto David,
"Bulletin Today" Columnist
NBC Bureau Chief, Manila

Cesar Buenaventura,
President, Pilipinas Shell

Wednesday, December 11, 1985
(See Separate Schedule in Davao City for
Jan Baran and Robert Bauer on Dec. 11)

09:00 Meeting in Cavite Province:

Belen Abreu,
Former Head of COMELEC Legal Division 1949-1957
Executive Trustee,
Magsaysay Awards Foundation (through 1984)

Emanuel Pelaez,
Former Vice President of the Philippines
Former Foreign Secretary

(Plus four additional distinguished public
figures who preferred to remain anonymous)

14:00 Meeting with COMELEC Officials in Tagaytay, Cavite for Review of Voter Registration, Voting Proceedures, and Vote Canvassing. Coordinated by:

Vicente "Vic" Gerochi,
Director,
Election and Barangay Affairs Department

Nancy Madarang,
Election Contests Administration

18:30 Meeting with Retired Generals:

Lt. General Jesus Vargas (ret.),
Former Minister of Defense
Former AFP Chief of Staff

Brig. General Luis Villareal (ret.)

Brig. General Simplicio Rivera (ret.)
"Last Watering Hole" (group of retired officers)

Brig. General Manuel Flores (ret.),
Former Superintendent Philippine Military Academy

Separate Schedule in Davao City for
Jan Baran and Robert Bauer on December 11

11:00 Meeting at Ateneo de Davao:

Father Emeterio Barcelon, SJ,
President, Ateneo de Davao University
Chairman, NAMFREL Region XI

12:30 Meeting at Davao Insular Hotel:

Leonilo Claudio,
Publisher, San Pedro Express

14:00 Meeting at COMELEC Regional Headquarters

Atty. Resurreccion Borra,
Regional Director, COMELEC Region XI

16:00 Meeting at USIS Office in Davao:

Jose Velasco,
Station Manager, Radio Station DXMS

Tony Vergara,
News Director, Radio Station DXMS

Thursday, December 12, 1985

08:00 Breakfast at Malacanang Palace:

Mrs. Imelda Marcos,
First Lady
Minister of Human Settlements
Governor, Metropolitan Manila

Jose C.B. "Jolly" Benitez,
Deputy Minister of Human Settlements
Member (KBL), Batasang Pambansa

Greg Areneta,
Son-in-Law of the First Lady

11:40 Meeting at Technology Resource Center:

Jose A. Rono,
Deputy Prime Minister
Minister of Local Government
Majority Floor Leader (KBL), Batasang Pambansa

12:40 Lunch with Opposition Leaders Hosted by DCM:

Francisco "Soc" Rodrigo,
Former Senator
Former Chairman & Vice Chairman of the
National Unification Committee

Neptali Gonzalez,
Member (UNIDO), Batasang Pambansa
Executive Vice President of UNIDO

Bren Guiao,
Secretary General, National Unification Committee
Former Secretary to Benigno "Ninoy" Aquino

Rene Espina,
Former Senator
Secretary General of UNIDO

Eva Kalaw,
Former Senator
President, Liberal Party (Kalaw wing)

Minnie Osmena Stuart,
UNIDO

Emigdio S. Tanjuatco, Jr.
Member (PDP-LABAN), Batasang Pambansa
(First Cousin to Corazon "Cory" Aquino)

15:30 Meeting at Administration Building, Malacanang Palace:

Leonardo B. Perez,
Minister of Political Affairs
Former COMELEC Chairman

18:30 Reception Hosted by the Speaker of the Batasang Pambansa:

Nicanor E. Yniguez
Speaker (KBL), Batasang Pambansa

Manuel M. Garcia,
Deputy Minister of Justice
Assistant Majority Floor Leader (KBL), Batasang Pambansa

Arturo F. Pacificador,
Deputy Minister of Public Works & Highways
Assistant Majority Floor Leader (KBL), Batasang Pambansa

Fernando R. Veloso,
Member (KBL), Batasang Pambansa

Salacnib V. Baterina,
Member (KBL), Batasang Pambansa

Manolito L. Asok,
Member (KBL), Batasang Pambansa

Manuel G. Collantes,
Member (KBL), Batasang Pambansa

Regalado E. Maambong,
Member (KBL), Batasang Pambansa

Edelmiro Amante, Sr.,
Member (Ind), Batasang Pambansa

19:00 Separate Meeting with Elaine Shocas:

Ernesto Herrera,
Secretary General of TUCP
Executive Council, NAMFREL
Former Member of the Agrava Board

21:00 Meeting at Mrs. Aquino's Home:

Mrs. Corazon "Cory" Aquino,
Opposition Candidate for President

Lupita Aquino Kashawahara,
Benigno "Ninoy" Aquino's sister

Friday, December 13, 1985

07:30 Meeting at Hilton Hotel:

Rene Saguisag,
MABINI Lawyer
Columnist and Writer on Legal & Human Rights Issues

10:00 Meeting at Malacanang Palace:

H.E. Ferdinand Edralin Marcos,
President of the Republic of the Philippines

(Also Attending: H.E. Stephen Bosworth,
Ambassador of the United States to the Philippines)

12:30 Luncheon with KBL leaders Hosted by Ambassador Bosworth:

Antonio Almendras,
Former Senator
Chairman of KBL for Region 11 (Southern Mindanao)

Rene Cayetano,
Member (KBL), Batsang Pambansa

Salacnib V. Baterina,
Member (KBL), Batasang Pambansa

Jose C.B. "Jolly" Benitez,
Deputy Minister of Human Settlements
Member (KBL), Batasang Pambansa

Vicente Valley,
Member (KBL), Batasang Pambansa

Richard Gordon,
Mayor of Olangapo (KBL)

16:00 Meeting at Archbishop's Palace:

Jamie Cardinal Sin

17:45 Meeting with Ambassador Bosworth & Staff

21:00 Meeting at Former Senator Laurel's Home:

Salavdor "Doy" Laurel,
Opposition Candidate for Vice Presidency

Saturday, December 14, 1985

07:30 Meeting at Hilton Hotel

Arturo Tolentino,
Former Senator
KBL Candidate for Vice Presidency

09:15 Meeting at Hilton Hotel

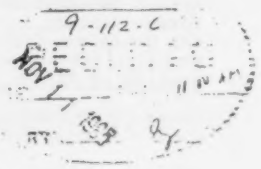
Jamie C. Opinion,
COMELEC Commissioner

Mario D. Ortiz,
COMELEC Commissioner

12:40 Delegation Departs Manila

E. Letter From President Ferdinand E. Marcos to Speaker of the Batasang Pambansa Nicanor E. Yniguez and Other Members of the Batasan, November 11, 1985

FERDINAND E. MARCOS
PRESIDENT OF THE PHILIPPINES



November 11, 1985

The Batasang Pambansa
Thru the Honorable
Speaker Nicanor E. Yñiguez
Quezon City

The Honorable Members
Batasang Pambansa:

In 1981 the Filipino electorate by overwhelming vote renewed my mandate for the leadership of the nation. I have responded to that summons with uncompromising fidelity to duty.

The same fidelity compels me now to face a responsibility thrust upon me by certain developments affecting the presidency. Over the past two years the mandate conferred upon me has been the object of propaganda and dissent that have cast a shadow over the continuing validity of the policies and programs I have instituted under the moral authority of that mandate. Yet the need of the moment is an undivided nation; innumerable tasks await our collective effort. There is no moment to lose. Neither can we prevaricate on the issue laid at our door, the issue of the validity of our present efforts in government, especially our approach to economic recovery and the insurgency problem. Clearly the mandate of 1981 must be placed before the people for reexamination.

I am, therefore, left no choice but to seek a new mandate in an election that will assess, as demanded by the opposition, the policies and programs I am undertaking. Such an election necessarily shortens my tenure. But the necessity arises from no less than the time-honored principle of public accountability, inherent in a democracy and explicit in our Constitution.

I seek public judgment now on policies and programs of a fundamental nature because they involve national growth and honor. For instance, we need to pursue further action in accord with the ideology we are endeavoring to follow. We must carry out the revolution of the poor which we have

instituted. We must support more forcefully with appropriate measures our rejection of foreign ideologies that do not fit into our traditions and beliefs as a people. We must carry on the program for human resources development, comprising such projects as the livelihood program, self-reliance, cottage industries, and small- and medium-scale industries.

The basic policies we have laid down concerning land ownership, labor and education must be pursued with vigor and vitality. We must continue with barangay participatory democracy and our rejection of the old social service dole system so as to lift our people from mendicancy to self-reliance through livelihood programs. We must preserve the maintenance of an open society and continue giving the lower and upper classes of our people equal opportunity in order that the former can develop their God-given faculties and rise to positions of leadership. The infrastructure program that emphasizes the development of the countryside must continue. Most of all, the nation must maintain social concord and coherence; free, honest and orderly elections; social justice; freedom of assembly; freedom of speech and other freedoms enshrined in our Constitution, all the frontiers of which have been advanced by the present administration and yet are now questioned by the opposition and their propagandists.

The final settlement of these issues can be achieved only through a presidential election. Once these fundamental issues are settled by mandate of our people, we shall be able to re-establish the unity of our nation. Our government and people will then be able to respond to the challenges of our times free from the threats and vexations which may negate the effectivity of the government institutions created to implement these policies and programs.

To pave the way for the holding of a special election for President, I hereby irrevocably vacate the position of President effective only when the election is held and after the winner is proclaimed and qualified as President by taking his oath of office ten (10) days after his proclamation. In all presidential elections, it has been the practice and tradition in all democracies that the President continues in office until the President-elect shall have qualified and assumed office. This practice should be continued and not modified. Any alternative will cause an undesirable and dangerous hiatus in the government.

I am obliged, therefore, to inform the Batasang Pambansa that a vacancy will definitely and inevitably occur in the Office of the President upon fulfillment of the conditions I have stated.

In order to submit the fundamental and national issues that urgently need resolution, we should hold an election for President distinct and apart from local elections where parochial and personal issues are involved.

I, therefore, strongly recommend that the Batasang Pambansa exercise its plenary legislative powers to pass a special law establishing the mechanism to hold such an election. A suitable date seems to be January 17, 1986, so that the start of the election campaign period of forty five days shall be December 2, 1985.

Accordingly, I am recommending the enactment of a Cabinet bill calling for presidential elections on January 17, 1986.

Truly yours,

FERDINAND E. MARCOS
President of the Philippines

F. "Cabinet Bill No. 7," Batas Pambansa Blg. 883, "An Act Calling a Special Election for President and Vice President," December 3, 1985

Republic of the Philippines
Batasang Pambansa
Second Session

C. B. No. 7

Batas Pambansa Blg. 883

AN ACT CALLING A SPECIAL ELECTION FOR PRESIDENT AND VICE-PRESIDENT, PROVIDING FOR THE MANNER OF THE HOLDING THEREOF, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Be it enacted by the Batasang Pambansa in session assembled:

SECTION 1. *Special election for President and Vice-President.* — There shall be a special election for President and Vice-President on February 7, 1986.

SEC. 2. *Direct vote and term of office.* — The President and the Vice-President shall be elected by direct vote of the people for a term of six years which shall begin at noon on the tenth day following their proclamation and shall end at noon on the thirtieth day of June of the sixth year thereafter.

SEC. 3. *Filing of certificate of candidacy.* — No person shall be elected President or Vice-President unless he files a sworn certificate of candidacy not later than December 11, 1985.

SEC. 4. *Nomination of official candidates.* — Political parties, coalitions, and other similar groups or organizations shall submit to the Commission on Elections a certificate of nomination of their respective official candidates not later than December 21, 1985.

SEC. 5. *Election and campaign periods.* — The election period shall be fixed by the Commission on Elections in accordance with Section 6, Article XII (C) of the Constitution.

The campaign period shall commence on December 11, 1985 and shall terminate on February 5, 1986.

SEC. 6. *Registration of voters.* — The board of election inspectors in polling places determined by the Commission on Elections shall meet on December 21, and 28, 1985 to receive and act on applications for registration of qualified voters, from seven o'clock in the morning to four o'clock in the afternoon. The said board shall include the newly registered voters in the list of voters for the particular polling place in which they have registered.

Within seven working days counted from the last day of registration provided herein, the municipal or city election registrar shall transmit direct to the Commission on Elections the exact number of qualified voters newly registered by the respective boards, together with the comparative data showing the increase/decrease in the number and percentage of the voters registered thereat in the May 14, 1984 Batasang Pambansa elections. The Commission on Elections shall publish in a newspaper of national circulation a summary of the aforementioned information classified on the basis of provinces, cities and municipalities, and shall also furnish a copy thereof to the representatives of the majority party and the dominant opposition party.

SEC. 7. *Meeting to close the list of voters before election.* — The board of election inspectors shall also meet on January 15, 1986 for the purpose of making such inclusions, exclusions, and corrections as may be or have been ordered by the courts, stating opposite every name so corrected, added, or cancelled the date of the order and the court which issued the same; and for the consecutive numbering of the voters of the polling place.

Should the board fail to include in the list of voters any person ordered by a competent court to be so included, said person shall, upon presentation of a certified copy of the order of inclusion and upon proper identification, be allowed by the board to vote.

Should the board fail to exclude from the list of voters any person ordered by the court to be so excluded, the board shall not permit said person to vote upon presentation to it by any interested party of a certified copy of the order of exclusion.

After the meeting of the board to close the list of voters as provided for in this section, the board shall prepare a list of the inclusions, exclusions and/or corrections, if any, and furnish copies of such list duly signed by all its members to the respective representatives of the majority party and the dominant opposition party in such board.

SEC. 8. *Inclusion and exclusion proceedings.* — The candidates and their respective political parties shall have up to January 31, 1986 within which to file inclusion and exclusion proceedings.

SEC. 9. *Accreditation of dominant opposition party.* — For purposes of the special election herein provided, the dominant opposition party shall be that registered political party, organization, aggroupment or coalition which nominated a candidate for President and Vice-President.

(1) In case more than one registered political party, organization, aggroupment or coalition presented an official candidate for President and Vice-President, the Commission on Elections shall require them to agree on the nomination of a common representative in the board of election inspectors, board of canvassers, printing committee and other similar bodies.

(2) Should the various opposition political parties, organizations, aggroupments or coalitions fail to come to an agreement, the Commission on Elections shall then determine

which among them shall be the dominant opposition party based on but not limited to the following guidelines:

a. Potential of the political party, organization, aggroupment or coalition into becoming a national party as evidenced by the number of its Members in the Batasang Pambansa, as well as by the size and strength of its party organization.

b. Capability of the political party, aggroupment or coalition to wage a *bona fide* nationwide campaign for its Presidential and Vice-Presidential nominees, as evidenced by its organization, the stature of its candidates and the number and strength of the political parties in the coalition or aggroupment.

c. Bailiwicks or areas of political support.

d. Platform or program of government distinguishing the political party, aggroupment or coalition from the other political entities on ideology and orientation.

e. The record of the political entity concerned in the matter of its adherence to constitutional provisions on elections.

(3) The Commission on Elections shall accredit the dominant opposition party not later than fourteen working days before the first registration day.

SEC. 10. *Date of proclamation.* — The proclamation of the winners in this special election shall take place within fifteen session days from the day the Batasang Pambansa starts the canvass, unless the delay is occasioned by justifiable cause.

SEC. 11. *Prohibited arrests in connection with the election campaign.* — The provisions on prohibited arrests and/or detentions in connection with the election campaign, including the penalties for violation thereof, as

provided under the Omnibus Election Code of the Philippines (Batas Pambansa Blg. _) shall be applicable to the special election provided in this Act.

SEC. 12. *Prohibited acts and penalties for election offenses.* — The provisions on prohibited acts, the penalties therefor and their prosecution under the Omnibus Election Code of the Philippines (Batas Pambansa Blg. _) shall be applicable to the special election provided in this Act.

SEC. 13. *Powers and authority of the Commission on Elections.* — The Commission on Elections is hereby empowered to issue rules and regulations implementing the provisions of this Act and, pursuant to Article XII (C) of the Constitution and the Omnibus Election Code of the Philippines (Batas Pambansa Blg. _), to adopt such measures as may be necessary to ensure the holding of free, honest, orderly and credible election.

Nothing in this Act shall be deemed to deprive the Commission on Elections of its powers or relieve it of its obligation to ensure the equitable protection of the rights and prerogatives of registered political parties for the purpose of holding free, honest, orderly and credible election.

SEC. 14. *Applicability of the Omnibus Election Code of the Philippines (Batas Pambansa Blg. _).* — All other aspects of this special election not covered by any provision of this Act shall be governed by the pertinent provisions of the Omnibus Election Code of the Philippines (Batas Pambansa Blg. _).

SEC. 15. *Appropriations.* — The amount of two hundred million pesos or so much thereof as may be necessary to carry out the purposes of this Act is hereby set aside out of the appropriations for special activities fund authorized in the Calendar Year 1985 and Calendar Year 1986 General Appropriations Acts.

The chairman and the poll clerk of the board of election inspectors, the inspectors of the political parties, the education support personnel of the Ministry of Education, Culture and Sports, and the supervisors, principals and other administrators of the said ministry who may be asked by the Commission on Elections and actually report for supervisory assignment during registration and election days, including provincial, city and municipal treasurers shall be entitled to per diems at rates fixed in the Omnibus Election Code of the Philippines (Batas Pambansa Blg. _).

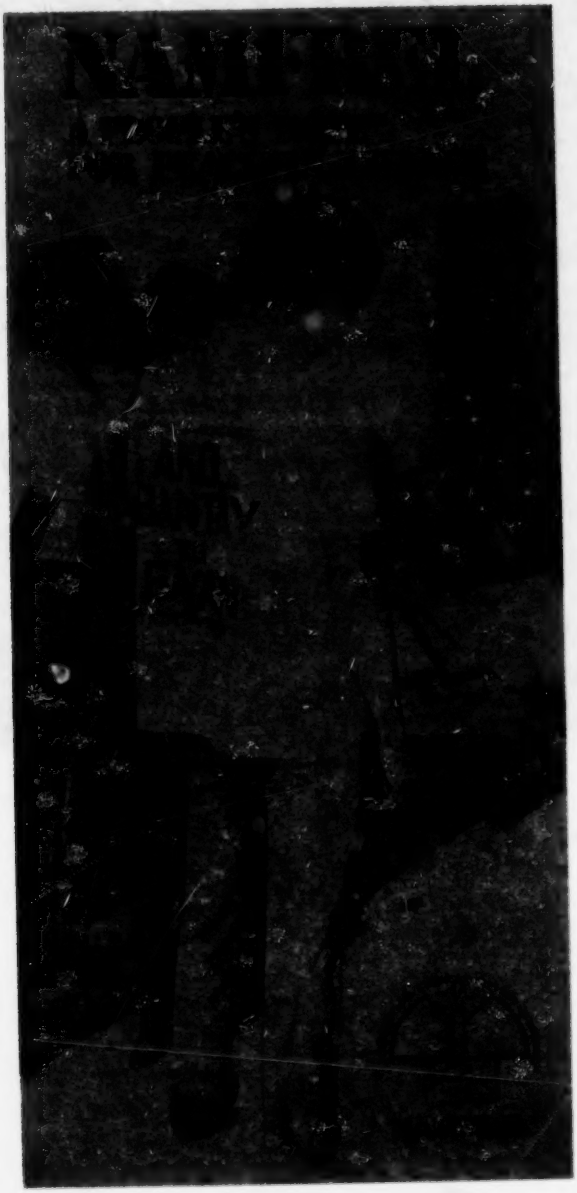
The chairmen, poll clerks, and party representatives shall be insured with the Government Service Insurance System in accordance with the provisions of the Omnibus Election Code of the Philippines (Batas Pambansa Blg. _).

SEC. 16. *Separability clause.* — If for any reason any section or provision of this Act or any portion thereof, or the application of such section, provision or portion to any person, group or circumstance, is declared invalid or unconstitutional, the remainder of this Act or the application of such provision to other persons, groups or circumstances shall not be affected by such declaration.

SEC. 17. *Effectivity.* — This Act shall take effect upon its approval.

Approved, December 3, 1985.

G. Pamphlet, "NAMFREL: A People's Hope for Peaceful Change," 1985



What is NAMFREL?

NAMFREL stands for the National Citizens Movement for Free Elections. It is a nonpartisan, all-men' group, totally committed to promotion and safeguarding democratic institutions and processes, particularly, the electoral process. It is voluntary, independent and community based.

NAMFREL is basically a "watchdog" effort with concerned Filipino citizens as its prime movers.

"Once in a while, an organization is built ... better days ahead. The time is now. It may not know again in your lifetime. Join NAMFREL."

What are the objectives of NAMFREL?

NAMFREL aims to hasten the pace of the citizenry in working toward free, orderly and honest elections by organizing and training volunteer community.

The overall objective is to field a minimum of 500,000 trained volunteers to watch the polls in all the voting centers in the country.

NAMFREL also carries out specific projects which further aim to make the electoral process meaningful such as:

- citizen education and voter awareness programs
- candidates forums
- passage of electoral laws that incorporate safeguards and the principle of fair play
- campaign for citizens' vigilance through the full cycle of the electoral process
- work toward the improvement of laws of competence and integrity in agencies concerned with elections

How did NAMFREL come about?

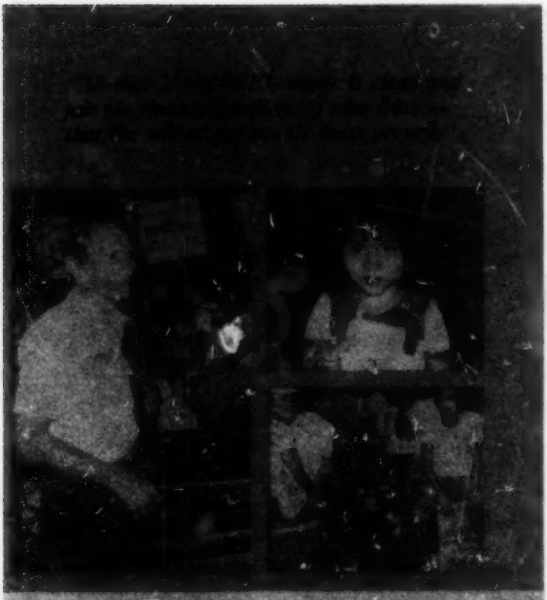
NAMFREL was organized in October 1983 by a group of concerned citizens led by Jose Concepcion, Jr.

Although NAMFREL is a new organization, it continues a tradition of citizens' groups who have been working for political reforms for the past 17 years. In fact, NAMFREL's organizers and participating organizations are mostly the same ones who campaigned for meaningful reforms during the past years.

In what ways can I help NAMFREL?

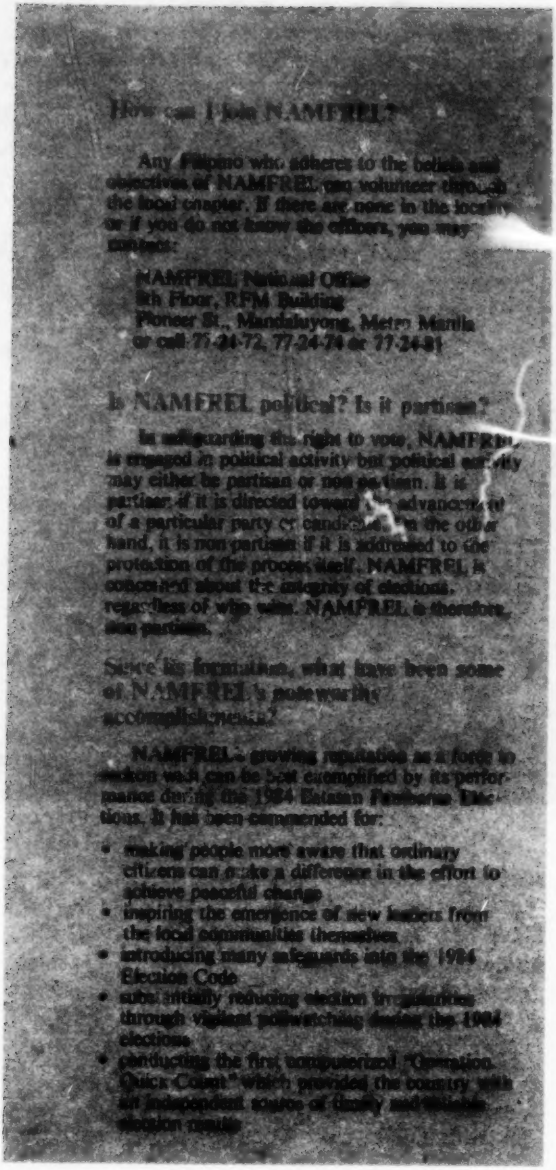
In many, many ways. NAMFREL needs all the help that it can get because its task is enormous. However, with everyone helping according to his talent or resources, the challenge of achieving free, orderly and peaceful elections can be met. You can help in the following ways:

- by volunteering as NAMFREL poll watchers
- by helping train poll watchers and other volunteers
- by acting as coordinator, resource speaker or media specialist in citizen education programs
- by helping organize candidates forums where issues and platforms can be debated in a neutral setting
- by volunteering legal services
- by helping clean the voters' list of illegal voters thru a census of residents
- by donating money or assisting the local chapter in resource generating activities
- by volunteering for the local chapter secretariat
- by lending office, computer and communications equipment and facilities to the local chapter, such as typewriters, HF or citizen's band radios, etc.
- by providing or generating media support to local chapter activities
- by donating food to pollwatchers and other volunteers
- by lending your vehicle to escort the transfer of ballot boxes



- by facilitating the Operation Quick Count thru your knowledge of computers and/or accounting
- by helping gather electoral tallies
- by taking photographs of election proceedings and anomalies
- by helping organize your particular sector and linking up to the local chapter
- by organizing communities and families to stay behind in the voting center after casting their votes to deter anomalies
- by participating in other appropriate tasks that safeguard the elections from registration of voters to voting, counting, canvassing, proclamation to the timely transmittal to the public of the conduct and results of elections

Any assistance that you can give will help prove the point that concerned citizens do make a big difference.



How can I join NAMFREL?

Any Filipino who adheres to the beliefs and objectives of NAMFREL can volunteer through the local chapter. If there are none in the locality or if you do not know the officers, you may contact:

NAMFREL National Office
8th Floor, RFM Building
Pioneer St., Mandaluyong, Metro Manila
or call 77-24-72, 77-24-74 or 77-24-81

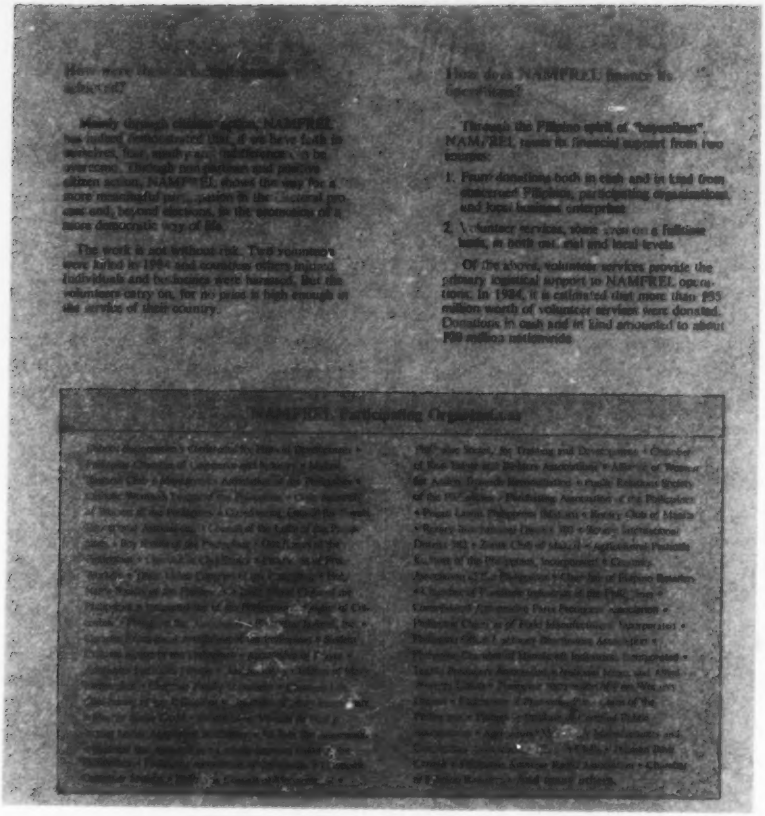
Is NAMFREL political? Is it partisan?

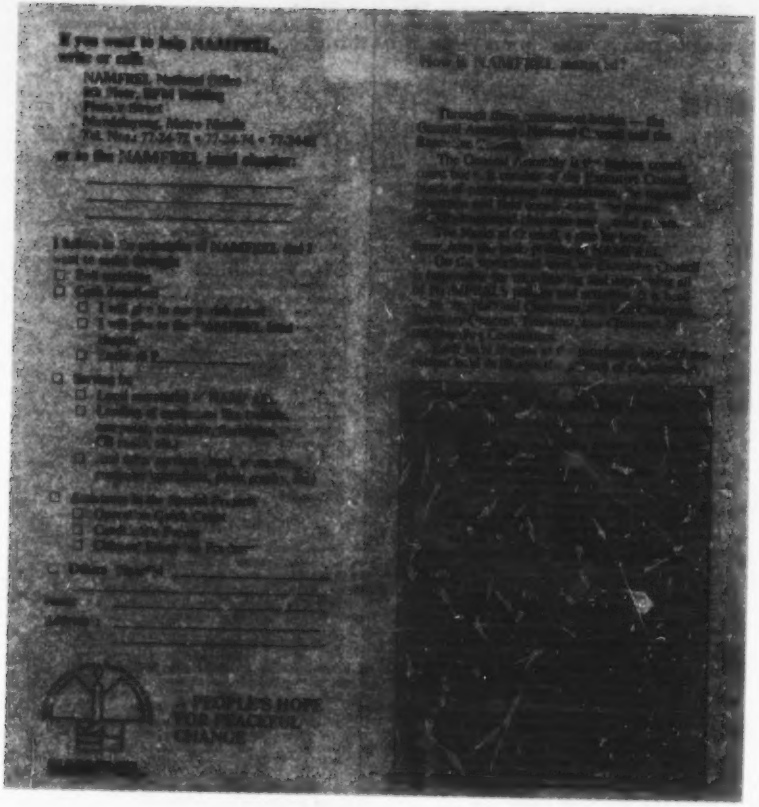
In safeguarding the right to vote, NAMFREL is engaged in political activity but political activity may either be partisan or non-partisan. It is partisan if it is directed toward the advancement of a particular party or candidate. On the other hand, it is non-partisan if it is addressed to the protection of the process itself. NAMFREL is concerned about the integrity of elections, regardless of who wins. NAMFREL is therefore, non-partisan.

Since its formation, what have been some of NAMFREL's noteworthy accomplishments?

NAMFREL's growing reputation as a force to reckon with can be best exemplified by its performance during the 1984 Batasan Pambansa Elections. It has been commended for:

- making people more aware that ordinary citizens can make a difference in the effort to achieve peaceful change
- inspiring the emergence of new leaders from the local communities themselves
- introducing many safeguards into the 1984 Election Code
- substantially reducing election irregularities through vigilant poll-watching during the 1984 elections
- conducting the first computerized "Operation Quick Count" which provided the country with an independent source of timely and reliable election results





H. State Department Unclassified Telegram, Manila to Washington, December 17, 1985, Text of COMELEC Resolution No. 1729 Regarding the Rules Governing "Citizens Arms" in the Presidential Election

UNCLASSIFIED

ACTION COPY

Department of State

INCOMING TELEGRAM

PAGE 01 OF 03 MANILA 39151 00 OF 03 171813Z 0469 EAP346
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E.O. 12356: N/A
TAGS: PGOV, OP
SUBJECT: COMELEC RESOLUTION ON CITIZEN'S ARM

REF: MANILA 39071

1. WE PICKED UP THE SET OF COMELEC RESOLUTIONS WE ARE FORWARDING TO THE CENTER FOR DEMOCRACY DELEGATION VIA EAP/PM, THE LATE AFTERNOON OF DEC. 16 (REFTEL). THEY INFORMED US THAT THE PACKAGE WOULD BE ON A PLANE THE MORNING OF DEC. 17. BECAUSE OF THE HIGH INTEREST OF THE DELEGATION IN THE RESOLUTION ON THE CITIZEN'S ARM, WE ARE TRANSMITTING IT BY CABLE IN ORDER TO ENSURE THAT THE DELEGATION WILL HAVE IT IN TIME TO PREPARE FOR THE SENATE FOREIGN RELATIONS COMMITTEE HEARINGS ON DEC. 18. COMELEC RESOLUTION NO. 1729 PROMULGATED ON DEC. 13 READS AS FOLLOWS.

2. BEGIN TEXT.

" " RESOLUTION NO. 1729

" PURSUANT TO THE POWERS VESTED BY THE CONSTITUTION AND BATAS PAMBANSA BLG. 881 (OMNIBUS ELECTION CODE), IN RELATION TO BATAS PAMBANSA BLG. 883, THE COMMISSION HEREBY RESOLVES TO PROMULGATE, AS IT HEREBY PROMULGATES, THE FOLLOWING RULES, GUIDELINES, AND PROCEDURES IN THE ACCREDITATION OF ITS CITIZENS ARMS.

" " I. PETITION

" 1. ANY NON-PARTISAN GROUP OR ORGANIZATION OF CITIZENS FROM THE CIVIC, YOUTH, PROFESSIONAL, EDUCATIONAL, BUSINESS OR LABOR SECTORS, MAY FILE A SWORN PETITION IN TEN (10) LEGIBLE COPIES, WITH THE COMMISSION FOR RECOGNITION OR ACCREDITATION AS ITS CITIZEN ARM.

" 2. THE PETITION SHALL ALLEGE THE FOLLOWING:
" " (A) THE CONSTITUENCY TO WHICH THE PETITIONER SEEKS RECOGNITION OR ACCREDITATION;
" " (B) THAT IT IS NOT SUPPORTING A POLITICAL PARTY OR CANDIDATE IN THE CONSTITUENCY WHERE IT SEEKS ACCREDITATION;
" " (C) NATURE OF ITS MEMBERSHIP (WHETHER CIVIC, YOUTH ETC.), NAMES OF ITS OFFICERS OR ORGANIZERS, LOCATION OF PRINCIPAL OFFICE OR PLACE OF BUSINESS AND ASSURANCE OF ITS CAPABILITY TO UNDERTAKE A COORDINATED OPERATION AND ACTIVITY TO ASSIST THE

MANILA 39151 00 OF 03 171813Z 0469 EAP346

COMMISSION.
" " (D) THAT IT SHALL SUBMIT ITSELF TO THE DIRECT AND IMMEDIATE CONTROL OF THE COMMISSION AND SHALL COMPLY WITH THE ORDERS OF THE COMMISSION IN THE PERFORMANCE OF ITS SPECIFIC FUNCTIONS AND ACTIVITIES PROVIDED IN SECTION 52(B), AND SUCH OTHER FUNCTIONS AND ACTIVITIES WHICH THE COMMISSION MAY ASSIGN TO IT.
" " (E) THAT IT SHALL REMAIN NON-PARTISAN AND IMPARTIAL DURING THE ELECTION PERIOD.
" " (F) THAT IT IS NOT UNDER THE INFLUENCE WHATSOEVER OF ANY FOREIGN GOVERNMENT, CORPORATION, OR ENTITY, AND SHALL NOT SOLICIT OR RECEIVE, DIRECTLY OR INDIRECTLY, ANY CONTRIBUTION OR AID OF WHATEVER FORM OR NATURE FROM ANY FOREIGN GOVERNMENT, CORPORATION OR ENTITY, AND THAT NEITHER SHALL SAID ORGANIZATION NOR ANY OF ITS MEMBERS SEEK TO ACHIEVE ITS OBJECTIVES OR PROGRAMS THROUGH VIOLENCE, OR AIM TO PROPAGATE ANY IDEOLOGY OPPOSED TO THE PRINCIPLES OF A REPUBLICAN AND DEMOCRATIC GOVERNMENT;
" " (G) THAT IT UNDERTAKES TO POLICE ITS RANKS AND PREVENT INFILTRATION BY PERSONS OR GROUP OF PERSONS WHO MAY, DIRECTLY OR INDIRECTLY, DESTROY ITS CHARACTER OF IMPARTIALITY.

" " II. NOTICE OF HEARING

" 1. UPON RECEIPT OF THE PETITION FOR ACCREDITATION, THE COMMISSION EN BANC OR IN DIVISION SHALL IMMEDIATELY SET THE PETITION FOR HEARING. THE COMMISSION MAY, IF IT DEEMS IT NECESSARY, ORDER THE PUBLICATION OF THE PETITION IN A NEWSPAPER OF GENERAL CIRCULATION AT THE EXPENSE OF THE PETITIONER.

" 2. ANY PERSON, GROUP, OR ORGANIZATION

POSSESSING RELEVANT INFORMATION OR EVIDENCE AGAINST THE PETITIONER MAY OPPOSE ITS ACCREDITATION IN WRITING UNDER OATH.

" 3. NOTWITHSTANDING THE ABSENCE OF ANY OPPOSITION, THE COMMISSION MAY MOTU PROPRIO REQUIRE THE PETITIONER TO PRESENT EVIDENCE TO SUPPORT ITS PETITION.

" 4. THE COMMISSION HEREBY AUTHORIZES AND EMPOWERS ITS REGIONAL DIRECTORS, IN CASE OF PETITION FOR ACCREDITATION IN A REGIONAL CONSTITUENCY, THE PROVINCIAL ELECTION OFFICER, IN CASE OF A PROVINCIAL CONSTITUENCY, OR ITS ELECTION REGISTRAR, IN CASE OF A CITY OR MUNICIPAL CONSTITUENCY, TO ACCEPT, HEAR, DECIDE, AND GRANT ACCREDITATION TO CITIZEN ARMS IN THEIR RESPECTIVE JURISDICTION IN ACCORDANCE WITH THIS RESOLUTION. COPIES OF DECISIONS GRANTING ACCREDITATION SHALL IMMEDIATELY BE FURNISHED THE SECRETARY OF THE COMMISSION.

" " III. DECISION

" THE COMMISSION SHALL RENDER ITS DECISION ON THE PETITION WITHIN THREE (3) DAYS FROM TERMINATION OF THE HEARING.

" " IV. CERTIFICATE OF ACCREDITATION

" 1. IF THE DECISION IS FOR THE ACCREDITATION OF THE PETITIONER, THE COMMISSION SHALL ISSUE A CERTIFICATE OF ACCREDITATION WHEREIN SHALL BE STATED:
" (A) THE NAME OF THE GROUP OR ORGANIZATION

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Department of State

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- - IS SO ACCREDITED AS COMELEC CITIZEN ARM,
- (B) THE CONSTITUENCY TO WHICH IT IS ACCREDITED,
- (C) THE ELECTION FOR WHICH IT IS ACCREDITED.

- 3. AFTER ITS ACCREDITATION, THE PETITIONER SHALL SUBMIT TO THE ELECTION REGISTRARS IN THE CONSTITUENCY WHERE IT IS ACCREDITED, THE NAMES AND ADDRESSES OF ITS MEMBERS WHO ARE AVAILABLE FOR ASSIGNMENT AS POLL WATCHERS, SUBSTITUTE WATCHERS AND THE SPECIFIC PRECINCTS TO WHICH THEY MAY BE ASSIGNED.

- 3. UNLESS THE IMPARTIALITY OR NON-PARTISANSHIP OF THE MEMBERS CONCERNED ARE QUESTIONED IN WRITING, THE ELECTION REGISTRAR SHALL IMMEDIATELY EXTEND THE CORRESPONDING APPOINTMENT TO SUCH MEMBERS STATING IN SUCH APPOINTMENTS THE PRECINCTS TO WHICH THEY ARE ASSIGNED FOR POLL DUTY.

- 4. THE MEMBERS SO APPOINTED SHALL HAVE THE SAME DUTIES, FUNCTIONS, AND RIGHTS AS THE OTHER WATCHERS/ARMS OF POLITICAL PARTIES AND CANDIDATES.

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I. "Minute Resolution of the (COMELEC) Commission Promulgated on April 3, 1984, Banning Barangay Officials From Sitting as Citizens Election Committee Members or Poll Watchers in the May 1984 Election

MINUTE RESOLUTION OF THE COMMISSION PROMULGATED ON APRIL 3, 1984

xxx xxx xxx

84-1347. In the matter of the telegraphic query, dated March 19, 1984, of Election Registrar Cordero of Katipunan, Zamboanga del Norte, on whether or not barangay officials specifically the barangay captains, can be member(s) of the citizens election committee as party representatives during the registration of voters on March 24, 25, 31 and April 1, 1984.

In the light of the overriding provision of the constitution, and taken as a measure to prevent possible abuses and suspicion of undue interference in the deliberations of the citizens election committees, it is the considered view of the Commission that barangay officials should not be allowed to sit as CEC members or watchers for the forthcoming May 14 election, or during additional registration days that the Commission may authorize.

The query of Election Registrar Cordero is therefore, answered in the negative.

Let the Law Department implement this resolution.

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I HEREBY CERTIFY to the correctness of the foregoing minute resolution of the Commission promulgated on April 3, 1984.

RUBERTO P. EVANGELISTA
Comelec Secretary

Copy For:

.The Chairman
.The Commissioners
.Executive Director
.Law Department

J. "U.S. Group Assured of Fair Poll," Manila Times Journal, December 14, 1985

NPA terror drive is on

Times Journal

SATURDAY, DECEMBER 14, 1985, VOL. XIV, NO. 54

US group assured of fair poll

TIMES JOURNAL, DECEMBER 14, 1985

US group assured of fair poll

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directors.

The President told the US visitors that as an added assurance that the election will be fair, local civic groups, including the National Movement for Free Elections and the Integrated Bar of the Philippines, have been asked to help watch the balloting.

The President said that even now, the NPA has already started its feared pre-election campaign of terror and violence. He said several NPA-instigated incidents have already been reported in Negros, Iloilo, Davao and the Bicol provinces.

Even in the north, the President's bailiwick, the government had to dispatch troops to Kalinga-Apayao, Cagayan and the Ilocos region to stop NPA coercion activities, Mr. Marcos said.

He added that as a result of NPA cruelty, people in the threatened regions were now turning against the insurgents.

The head of the US group, Dr. Allen Weinstein, president of the Center for Democracy, said they were sent here to monitor preparations for the elections so that they can help accurately gauge the will of the electorate.

The presidential party to Lipa will include the First Lady who will induct officers of three groups – the Kabalig sa Diwang Pilipino, the Regional Information Coordinating team headed by Director Andres Cristobal Cruz, and team leaders of the Ugnayan sa Katimugang Tagalog.

A proposed growth corridor strategy for the Southern Tagalog area calling for the development of areas located along transportation routes in Laguna, Batangas, Cavite and Quezon will be taken up by the President with regional officials.

This project involves industrial development along a corridor in the three provinces to process raw materials and serve as distribution outlets for farm products.

Each of the proposed integrated area development projects for the provinces of Aurora, Mindoro, Romblon and Quezon, (Bondoc Peninsula), will be provided with support staff.

The Aurora project may possibly receive assistance from the European Economic Commission (EEC).

The establishment of the Taal Lake Development Authority will be explained by officials of the Agriculture and Food Ministry, Farm Systems Development Corp. and the National Council for Integrated Area Development.

The First Couple and Tolentino will be welcomed by Lipa officials headed by Mayor Carlos Solis and governors from the Southern Tagalog provinces.

Meanwhile, Malacañang sources said that in case of an opposition win in February, the opposition will still be unable to change the government program or even pass bills, including amendments to the Constitution.

The same sources warned that the opposition in such a situation will create another Vietnam here by bringing about violence and bloodshed.

The division of the armed forces was also foreseen by the same sources because once in power, the opposition will appoint a new armed forces chief of staff, new unit and battalion commanders.

"They (the opposition) will become so desperate that they will use force to compel subservience of the people, including the President and the KBL leaders in the Batasan," the sources said.

"The President and his family will probably be tried unless they leave the country voluntarily," the sources said.

These possibilities indicated the opposition's capacity for vengeance, the sources said.

K. Two Cartoons in Manila Newspapers on the Center for Democracy Delegation's Visit

Times Journal
Dec 6, 1985

US SENATE
ELECTION
STUDY GROUP
SNAP
POLLS